IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

George W. Fitzmaurice

Serial No. 10/684,580   Group Art Unit: 2179

Confirmation No. 2335

Filed: October 15, 2003   Examiner: Tuyetlien T. Tran

For: TRACKING MENUS, SYSTEM AND METHOD

<u>**APPLICANT APPEAL BRIEF UNDER 37 C.F.R. §41.37**</u>

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Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

 In a Notice of Appeal filed May 11, 2009 the Applicant appealed from the Examiner's Final Office Action mailed December 11, 2008, finally rejecting claims 1-30 and 32-56.

 Submitted herewith is an Applicant Appeal Brief under 37 C.F.R. §41.37, and the requisite fees set forth in 37 C.F.R. §41.20(b)(2).

 If any further fees are required in connection with this filing, please charge our Deposit Account No. 19-3935.

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B.   **Rejection of Claims 1-4, 6-11, 13-15, 20-28, 32-34, 37-38, and 44-54 under 35 U.S.C. § 103(a) over Iwema and Strauss**

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I. REAL PARTY IN INTEREST (37 C.F.R. § 41.37(c)(1)(i))

The real party in interest is Autodesk, Inc. of San Rafael, California, the assignee of the subject application.

II. RELATED APPEALS AND INTERFERENCES (37 C.F.R. § 41.37(c)(1)(ii))

Appellants believe that a co-pending Appeal in 10/684,579 may be related to, directly affect or be directly affected by, or have a bearing on, the Board's decision in the pending Appeal.

III. STATUS OF CLAIMS (37 C.F.R. § 41.37(c)(1)(iii))

Claims 1-30 and 32-56 are rejected and are being appealed.

Claim 31 is allowed.

IV. STATUS OF AMENDMENTS (37 C.F.R. § 41.37(c)(1)(iv))

In the final Office Action, claims 1-24, 26, 27, 50-52, 55, and 56 were objected to and the Examiner made suggestions for amendment. These suggestions have been adopted in a concurrently filed Amendment. The concurrently filed Amendment has not yet been entered but it is expected it will be as it adopts the Examiner's suggestions.

The claims of the appendix reflect the amendments of the concurrently filed Amendment.

V. SUMMARY OF CLAIMED SUBJECT MATTER (37 C.F.R. § 41.37(c)(1)(v))

The independent claims being appealed are 1, 25, 28, 32, and 44-54.

The dependent claims being appealed are 2-24, 26, 27, 39, 30, 33, 34-43, and 55 and 56.

A. Independent Claim 1

> 1.   (previously presented) A graphical user interface display, comprising:
>
> *Support*: See, for example, the present Application, paragraph [0034], Figures 1, 2a-2c, 3a, 3b, reference numerals 10-15, 40, 42, 44, 46.
>
> a tracking symbol corresponding to an input transducer movable by a user; and
>
> *Support*: See, for example, the present Application, paragraphs [0034]-[0038], Figures 1, 2a-2c, 3a, 3b, 4, reference numerals 14, 44, 62a.
>
> a menu, on the display, having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, the region having controls with boundaries and activatable when the tracking symbol corresponds to the controls, and the menu is always visible when one of the controls is not activated and always not visible when one of the controls is activated.
>
> *Support*: See, for example, the present Application, paragraphs [0035], [0039]-[0044], Figure 2c, Figure 5, reference numerals 10, 66, 68, 60, 90, 92.

Independent claim 1 recites a graphical user interface display. See, for example, the present Application, paragraph [0034], Figures 1, 2a-2c, 3a, 3b, reference numerals 10-15, 40, 42, 44, 46. The summary of the claimed subject matter for claim 1 is as follows.

The graphical user interface display includes a tracking symbol. The tracking symbol is positioned according to an input transducer movable by a user: See, for example, the present Application, paragraphs [0034]-[0038], Figures 1, 2a-2c, 3a, 3b, 4, reference numerals 14, 44, 62a.

The graphical user interface display includes a menu on the display. The menu includes a mobile tracking region having a region boundary coincident with the menu boundary and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the

region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, the region having controls with boundaries and activatable when the tracking symbol corresponds to the controls. *See, for example,* the present Application, paragraphs [0035], [0039]-[0044], Figure 2c, 5, reference numerals 10, 66, 68, 60, 90, 92.

Additionally, the menu is always visible when one of the controls is not activated and always not visible when one of the controls is activated. *See, for example,* the present Application, paragraphs [0035], [0039]-[0044], Figure 2c, 5, reference numerals 10, 66, 68, 60, 90, 92.

B. Independent Claim 25

25.　(previously presented) An interface display, comprising:

Support: *See, for example,* the present Application, paragraph [0034], Figures 1, 2a-2c, 3a, 3b, reference numerals 10-15, 40, 42, 44, 46.

a first tracking symbol having a first tracking symbol position controllable by the user; and

Support: *See, for example,* the present Application, paragraphs [0034]-[0038], Figures 1, 2a-2c, 3a, 3b, 4, reference numerals 14, 44, 62a.

a second tracking symbol containing the first tracking symbol, having a second tracking symbol position controlled by the first tracking symbol and having objects selectable by the first tracking symbol, the second tracking symbol having a menu containing the selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated.

Support: *See, for example,* paragraphs [0035], [0039]-[0044], Figure 2c, 5, reference numerals 10, 66, 68, 60, 90, 92.

Independent claim 25 recites an interface display. *See, for example,* the present Application, paragraph [0034], Figures 1, 2a-2c, 3a, 3b, reference numerals 10-15, 40, 42, 44, 46. The summary of the claimed subject matter for claim 25 is as follows.

The interface display includes a first tracking symbol having a first tracking symbol position controllable by the user. *See, for example,* the present Application, paragraphs [0034]-[0038], Figures 1, 2a-2c, 3a, 3b, 4, reference numerals 14, 44, 62a.

Additionally, the interface display also includes a second tracking symbol containing the first tracking symbol, having a second tracking symbol position controlled by the first tracking

symbol and having objects selectable by the first tracking symbol, the second tracking symbol having a menu containing the selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary. See, for example, paragraphs [0035], [0039]-[0044], Figure 2c, 5, reference numerals 10, 66, 68, 60, 90, 92.

Further, the menu of the second tracking symbol is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated. See, for example, paragraphs [0035], [0039]-[0044], Figure 2c, 5, reference numerals 10, 66, 68, 60, 90, 92.

C. Independent Claim 28

28.   (previously presented) An interface, comprising:

Support: See, for example, the present Application, paragraph [0034], Figures 1, 2a-2c, 3a, 3b, reference numerals 10-15, 40, 42, 44, 46.

a display;

Support: See, for example, the present Application, paragraph [0034], Figures 1, 2a-2c, 3a, 3b, reference numerals 10-15, 40, 42, 44, 46.

a tracking menu positioned on the display, having an edge and having controls positioned in the menu with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the controls is not activated and always not visible when one of the controls is activated;

Support: See, for example, paragraphs [0035], [0039]-[0044], Figure 2c, 5, reference numerals 10, 66, 68, 60, 90, 92.

a tracking symbol positioned above the menu, encountering the edge of the boundary when moved and moving the menu when the edge is encountered.

Support: See, for example, the present Application, paragraphs [0034]-[0038], Figures 1, 2a-2c, 3a, 3b, 4, reference numerals 14, 44, 62a.

Independent claim 28 recites an interface including a display. See, for example, the present Application, paragraph [0034], Figures 1, 2a-2c, 3a, 3b, reference numerals 10-15, 40, 42, 44, 46. The summary of the claimed subject matter for claim 28 is as follows.

The interface also includes a tracking menu positioned on the display, having an edge and having controls positioned in the menu with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu

boundary. <u>See, for example,</u> paragraphs [0035], [0039]-[0044], Figure 2c, 5, reference numerals 10, 66, 68, 60, 90, 92.

The tracking menu is always visible when one of the controls is not activated and always not visible when one of the controls is activated. <u>See, for example,</u> paragraphs [0035], [0039]-[0044], Figure 2c, 5, reference numerals 10, 66, 68, 60, 90, 92.

The interface also includes a tracking symbol positioned above the menu, encountering the edge of the boundary when moved and moving the menu when the edge is encountered. <u>See, for example,</u> the present Application, paragraphs [0034]-[0038], Figures 1, 2a-2c, 3a, 3b, 4, reference numerals 14, 44, 62a.

D. Independent Claim 32

> 32.   (previously presented) A method, comprising:
>
> allowing a user to move a tracking symbol on a display; and
>
> > ***Support***: <u>See, for example,</u> the present Application, paragraph [0034]-[0038], Figures 1, 2a-2c, 3a, 3b, 4, reference numerals 10-15, 40, 42, 44, 46 62a.
>
> moving a tracking menu having controls in correspondence to the symbol when the symbol encounters an edge of the menu with the menu always being visible when one of the controls is not activated and always being not visible when one of the controls is activated.
>
> > ***Support***: <u>See, for example,</u> paragraphs [0035], [0039]-[0044], Figure 2c, 5, reference numerals 10, 66, 68, 60, 90, 92.

Independent claim 32 is a method claim. The summary of the claimed subject matter for claim 32 is as follows.

The method includes allowing a user to move a tracking symbol on a display. <u>See, for example,</u> the present Application, paragraph [0034]-[0038], Figures 1, 2a-2c, 3a, 3b, 4, reference numerals 10-15, 40, 42, 44, 46 62a.

The method also includes moving a tracking menu having controls in correspondence to the symbol when the symbol encounters an edge of the menu with the menu always being visible when one of the controls is not activated and always being not visible when one of the controls is activated. <u>See, for example,</u> paragraphs [0035], [0039]-[0044], Figure 2c, 5, reference numerals 10, 66, 68, 60, 90, 92.

E. Independent Claim 44

> 44.   (previously presented) A method, comprising moving a first

tracking symbol responsive to movement of a second tracking symbol, the first tracking symbol having a menu containing selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary and moving the second tracking symbol responsive to an input transducer, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated.

Support: See, for example, the present Application, paragraph [0034]-[0044], Figures 1, 2a-2c, 3a, 3b, 4, 5, reference numerals 10-15, 22, 40, 42, 44, 46, 62a, 66, 68, 60, 90, 92.

Independent claim 44 is a method claim. The summary of the claimed subject matter of claim 44 is as follows.

The method includes moving a first tracking symbol responsive to movement of a second tracking symbol, the first tracking symbol having a menu containing selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary and moving the second tracking symbol responsive to an input transducer. See, for example, the present Application, paragraph [[0035], Figure 2c, reference numerals 13, 14, 22.

Furthermore, the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated. See, for example, the present Application, paragraph [0043], Figure 5.

F. Independent Claim 45

45.   (previously presented) A method, comprising using a single cursor movement to both move and activate a mobile control, the mobile control having a menu containing selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the selectable objects is not selected and always not visible when one of the selectable objects is selected.

Support: See, for example, the present Application, paragraphs [0035] and [0043], Figures 2c, Figure 5, reference numerals 13, 14, 22.

Independent claim 45 is a method claim. The summary of the claimed subject matter of claim 45 is as follows.

The method includes using a single cursor movement to both move and activate a mobile control, the mobile control having a menu containing selectable objects with the menu

having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary. <u>See, for example</u>, the present Application, paragraph [0035], Figure 2c, reference numerals 13, 14, 22.

Further, the menu is always visible when one of the selectable objects is not selected and always not visible when one of the selectable objects is selected. <u>See, for example</u>, the present Application, paragraph [0043], Figure 5.

G. Independent Claim 46

46.   (previously presented) An apparatus, comprising:

a position transducer;

Support: <u>See, for example</u>, paragraph [0058], Figure 21, reference numeral 630.

a display; and

Support: <u>See, for example</u>, paragraph [0058], Figure 21, reference numeral 364.

a computer coupled to the display and the transducer, and producing for display a first tracking symbol having a first tracking symbol position controllable by the transducer and a second tracking symbol containing the first tracking symbol, having a second tracking symbol position controlled by the position of the first tracking symbol and having controls selectable by the first tracking symbol, the second tracking symbol having a menu containing selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated.

<u>See, for example</u>, the present Application, paragraphs [0034]-[0044], Figures 1, 2a-2c, 3a, 3b, 4, 5, reference numerals 10-15, 22, 40, 42, 44, 46, 62a, 66, 68, 60, 90, 92.

Independent claim 46 is an apparatus claim. The summary of the claimed subject matter of claim 46 is as follows.

Independent claim 46 recites a position transducer. <u>See, for example</u>, the present Application, paragraph [0058], Figure 21, reference numeral 360.

The apparatus also includes a display. <u>See, for example</u>, the present Application, paragraph [0058], Figure 21, reference numeral 364.

The apparatus further includes a computer coupled to the display and the transducer. <u>See, for example</u>, paragraph [0058], Figure 21, reference numeral 362.

Claim 46 recites that the computer producing for display a first tracking symbol having a first tracking symbol position controllable by the transducer and a second tracking symbol containing the first tracking symbol, having a second tracking symbol position controlled by the position of the first tracking symbol and having controls selectable by the first tracking symbol, the second tracking symbol having a menu containing selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary. <u>See, for example,</u> the present Application, paragraphs [0034]-[0044], Figures 1, 2a-2c, 3a, 3b, 4, reference numerals 10-15, 22, 40, 42, 44, 46, 62a, 66, 68, 60, 90, 92.

Additionally, the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated. <u>See, for example</u>, paragraph [0043], Figure 5.

H. Independent Claim 47

> 47.   (previously presented) A computer readable storage controlling a computer by allowing a user to move a tracking symbol on a computer display, and moving a tracking menu in correspondence to the symbol when the symbol encounters an edge of the menu, the menu containing selectable objects, with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated.
>
> ***Support***: <u>See, for example,</u> paragraphs [0034]-[0044], [0062], Figures 1, 2a-2c, 3a, 3b, 4, 5, reference numerals 10-15, 22, 40, 42, 44, 46, 62a, 66, 68, 60, 90, 92.

Independent claim 47 is a computer readable storage claim. <u>See, for example</u>, the present Application, paragraph [0062]. The summary of the claimed subject matter of claim 47 is as follows.

The computer readable storage includes controlling a computer by allowing a user to move a tracking symbol on a computer display, and moving a tracking menu in correspondence to the symbol when the symbol encounters an edge of the menu, the menu containing selectable objects, with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary. <u>See, for example</u>, the present Application, paragraphs [0034]-[0044], Figures 1, 2a-2c, 3a, 3b, 4, reference numerals 10-15, 22, 40, 42, 44, 46, 62a, 66, 68, 60, 90, 92.

Additionally, the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated. See, for example, the present Application, paragraph [0043], Figure 5.

I. Independent Claim 48

> 48.　(previously presented)　A computer readable storage controlling a computer with a first tracking symbol having a first tracking symbol position controllable by the user; and a second tracking symbol containing the first tracking symbol, having a second tracking symbol position controlled by the first tracking symbol and having a menu with objects selectable by the first tracking symbol with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated.

> **Support**: See, for example, the present Application, [0034]-[0044], [0062], Figures 1, 2a-2c, 3a, 3b, 4, 5, reference numerals 10-15, 22, 40, 42, 44, 46, 62a, 66, 68, 60, 90, 92.

Independent claim 48 is a computer readable storage claim. See, for example, the present Application, paragraph [0062]. The summary of the claimed subject matter of claim 48 is as follows.

The computer readable storage includes controlling a computer with a first tracking symbol having a first tracking symbol position controllable by the user; and a second tracking symbol containing the first tracking symbol, having a second tracking symbol position controlled by the first tracking symbol and having a menu with objects selectable by the first tracking symbol with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary. See, for example, the present Application, paragraphs [0034]-[0044], Figures 1, 2a-2c, 3a, 3b, 4, reference numerals 10-15, 22, 40, 42, 44, 46, 62a, 66, 68, 60, 90, 92.

Furthermore, the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated. See, for example, the present Application, paragraph [0043], Figure 5.

J. Independent Claim 49

> 49.　(previously presented)　A graphical user interface display, comprising:

> a display area that tracks a cursor tool when the cursor tool reaches a boundary of the area and that has a display function;

18

and

See, for example, the present Application, paragraphs [0034], [0058], Figure 1, Figure 21, reference numerals 10-15, 364.

the cursor tool movable within the area and that drags the area around when the boundary is reached and being activated by an input event, the area having a menu containing selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated.

Support: See, for example, paragraphs [0034]-[0044], Figures 1, 2a-2c, 3a, 3b, 4, 5, reference numerals 10-15, 22, 40, 42, 44, 46, 62a, 66, 68, 60, 90, 92.

Independent claim 49 is a graphical user interface display claim. The summary of the claimed subject matter of claim 49 is as follows.

The graphical user interface display includes a display area that tracks a cursor tool when the cursor tool reaches a boundary of the area and that has a display function. See, for example, the present Application, paragraphs [0034], [0058], Figure 1, Figure 21, reference numerals 10-15, 364.

Furthermore, claim 49 recites that the cursor tool movable within the area and that drags the area around when the boundary is reached and being activated by an input event, the area having a menu containing selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary. See, for example, the present Application, paragraphs [0034]-[0044], Figures 1, 2a-2c, 3a, 3b, 4, reference numerals 10-15, 22, 40, 42, 44, 46, 62a, 66, 68, 60, 90, 92.

Finally, the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated. See, for example, the present Application, paragraph [0043], Figure 5.

K. Independent Claim 50

50. (Currently Amended) A graphical user interface ~~of a computer~~ display, comprising:

Support: See, for example, the present Application, paragraph [0034], Figures 1, 2a-2c, 3a, 3b, reference numerals 10-15, 40, 42, 44, 46.

a tracking symbol positioned corresponding to an input transducer movable by a user; and

> **Support**: <u>See, for example,</u> the present Application, paragraphs [0034] and [0058], Figures 1 and 21, reference numerals 14, 360.
>
> a mobile tracking region, on the display, having a region boundary enclosing the tracking symbol with the tracking symbol being movable within the boundary when not dragging, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, the region having controls activatable when the tracking symbol corresponds to the controls, and the mobile tracking region is always visible when one of the controls is not activated and always not visible when one of the controls is activated.
>
> **Support**: <u>See, for example,</u> the present Application, paragraphs [0034]-[0044], Figures 1, 2a-2c, 3a, 3b, 4, 5, reference numerals 10-15, 22, 40, 42, 44, 46, 62a, 66, 68, 60, 90, 92.

Independent claim 50 is a claim for a graphical user interface display. <u>See, for example,</u> the present Application, paragraph [0034], Figures 1, 2a-2c, 3a, 3b, reference numerals 10-15, 40, 42, 44, 46. The summary of the claimed subject matter for claim 50 is as follows.

Independent claim 50 recites a tracking symbol positioned corresponding to an input transducer movable by a user. <u>See, for example,</u> the present Application, paragraphs [0034] and [0058], Figures 1 and 21, reference numerals 14, 360.

Claim 50 further recites a mobile tracking region, on the display, having a region boundary enclosing the tracking symbol with the tracking symbol being movable within the boundary when not dragging, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, the region having controls activatable when the tracking symbol corresponds to the controls. <u>See, for example,</u> the present Application, paragraphs [0034]-[0044], Figures 1, 2a-2c, 3a, 3b, 4, reference numerals 10-15, 22, 40, 42, 44, 46, 62a, 66, 68, 60, 90, 92.

Finally, the mobile tracking region is always visible when one of the controls is not activated and always not visible when one of the controls is activated. <u>See, for example,</u> the present Application, paragraph [0043], Figure 5.

L. Independent Claim 51

> 51.   (Currently Amended) A graphical user interface ~~of a computer~~ display, comprising:
>
> **Support**: <u>See, for example,</u> the present Application, paragraph [0034], Figures 1, 2a-2c, 3a, 3b, reference numerals 10-15, 40, 42, 44, 46.
>
> a tracking symbol positioned corresponding to an input transducer

movable by a user;

>*Support*: See, for example, the present Application, paragraphs [0034] and [0058], Figures 1 and 21, reference numerals 14, 360.

a mobile tracking region, on the display, having a region boundary enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, the region having controls activatable when the tracking symbol corresponds to the controls, the controls for selecting commands, and the mobile tracking region is always visible when one of the controls is not activated and always not visible when one of the controls is activated.

>*Support*: See, for example, the present Application, paragraphs [0034]-[0044], [0050], Figures 1, 2a-2c, 3a, 3b, 4, 5, 6a-6f, reference numerals 10-15, 22, 40, 42, 44, 46, 62a, 66, 68, 60, 84, 90, 92.

Independent claim 51 is a claim for a graphical user interface display. See, for example, the present Application, paragraph [0034], Figures 1, 2a-2c, 3a, 3b, reference numerals 10-15, 40, 42, 44, 46. The summary of the claimed subject matter for claim 51 is as follows.

Independent claim 51 recites a tracking symbol positioned corresponding to an input transducer movable by a user. See, for example, the present Application, paragraphs [0034] and [0058], Figures 1 and 21, reference numerals 14, 360.

Claim 51 further recites a mobile tracking region, on the display, having a region boundary enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving. See, for example, the present Application, paragraph [0034], Figures 1 and 2c, reference numeral 11, 14, 15, 22.

Furthermore, claim 51 the region having controls activatable when the tracking symbol corresponds to the controls, the controls for selecting commands. See, for example, the present Application, paragraph [0045], Figures 6a-6f, reference numeral 84. Finally, the mobile tracking region is always visible when one of the controls is not activated and always not visible when one of the controls is activated. See, for example, the present Application, paragraph [0043], Figure 5.

M. Independent Claim 52

52.   (Currently Amended) A graphical user interface~~of a computer display~~, comprising:

> *Support*: See, for example, the present Application, paragraph [0034], Figures 1, 2a-2c, 3a, 3b, reference numerals 10-15, 40, 42, 44, 46.
>
> a tracking symbol positioned corresponding to an input transducer movable by a user; and
>
> *Support*: See, for example, the present Application, paragraphs [0034] and [0058], Figures 1 and 21, reference numerals 14, 360.
>
> a menu, on the display, having an edge enclosing the tracking symbol with the tracking symbol being movable within the edge, the menu moving in correspondence to the tracking symbol when the tracking symbol encounters the edge while moving, and the region having controls activatable when the tracking symbol corresponds to the controls, and the menu is always visible when one of the controls is not activated and always not visible when one of the controls is activated.
>
> *Support*: See, for example, the present Application, paragraphs [0044]-[0044], [0050], Figures 1, 2a-2c, 3a, 3b, 4, 5, 6a-6f, reference numerals 10-15, 22, 40, 42, 44, 46, 62a, 66, 68, 60, 84, 90, 92.

Independent claim 52 is a claim for a graphical user interface display. See, for example, the present Application, paragraph [0034], Figures 1, 2a-2c, 3a, 3b, reference 10-15, 40, 42, 44, 46. The summary of the claimed subject matter of claim 52 is as follows.

Independent claim 52 recites a tracking symbol positioned corresponding to an input transducer movable by a user. See, for example, the present Application, paragraphs [0034] and [0058], Figures 1 and 21, reference numerals 14, 360.

Claim 52 further recites a menu, on the display, having an edge enclosing the tracking symbol with the tracking symbol being movable within the edge, the menu moving in correspondence to the tracking symbol when the tracking symbol encounters the edge while moving. See, for example, the present Application, paragraph [0034], Figures 1 and 2c, reference numeral 10, 11, 14, 15, 22.

Even further, claim 52 recites the region having controls activatable when the tracking symbol corresponds to the controls. See, for example, the present Application, paragraph [0045], Figures 6a-6f, reference numeral 84. Finally, the menu is always visible when one of the controls is not activated and always not visible when one of the controls is activated. See, for example, the present Application, paragraph [0043], Figure 5.

N. Independent Claim 53

> 53.   (previously presented) A graphical user interface display,

comprising:

a tracking symbol positioned on the display corresponding to an input transducer movable by a user; and

Support: See, for example, the present Application, paragraphs [0034] and [0058], Figures 1 and 21, reference numerals 14 and 360.

a menu, on the display, having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, the region having controls with boundaries and activatable when the tracking symbol corresponds to the controls.

Support: See, for example, the present Application, the present Application, paragraphs [0035]-[0038], Figures 1, 2a-2c, 6a-6f reference numerals 10, 15, 22, 84.

Independent claim 53 is a claim for a graphical user interface display. The summary of the claimed subject matter of claim 53 is as follows.

The graphical user interface display includes a tracking symbol positioned on the display corresponding to an input transducer movable by a user. See, for example, the present Application, paragraphs [0034] and [0058], Figures 1 and 21, reference numerals 14 and 360.

The graphical user interface display further includes a menu, on the display, having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, the region having controls with boundaries and activatable when the tracking symbol corresponds to the controls. See, for example, the present Application, the present Application, paragraphs [0035]-[0038], Figures 1, 2a-2c, 6a-6f reference numerals 10, 15, 22, 84.

O. Independent Claim 54

54. (previously presented) A graphical user interface display, comprising:

a tracking symbol positioned on the display corresponding to an input transducer movable by a user; and

Support: See, for example, the present Application, paragraphs [0034] and [0058], Figures 1 and 21, reference numerals 14 and 360.

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a menu, on the display, having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, the region having controls with boundaries and activatable when the tracking symbol corresponds to the controls, the menu is always visible when one of the controls is not activated and always not visible when one of the controls is activated, and the menu tracks the tracking symbol when the menu is not visible.

Support: <u>See, for example</u>, the present Application, the present Application, paragraphs [0035]-[0038], [0043], Figures 1, 2a-2c, 5, 6a-6f reference numerals 10, 15, 22, 84.

Independent claim 54 is a claim for a graphical user interface display. The summary of the claimed subject matter for claim 54 is as follows.

The graphical user interface display includes a tracking symbol positioned on the display corresponding to an input transducer movable by a user. <u>See, for example</u>, the present Application, paragraphs [0034] and [0058], Figures 1 and 21, reference numerals 14 and 360.

Furthermore, the graphical user interface display includes a menu, on the display, having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, the region having controls with boundaries and activatable when the tracking symbol corresponds to the controls. <u>See, for example</u>, the present Application, the present Application, paragraphs [0035]-[0038], Figures 1, 2a-2c, 6a-6f reference numerals 10, 15, 22, 84.

Finally, the menu is always visible when one of the controls is not activated and always not visible when one of the controls is activated, and the menu tracks the tracking symbol when the menu is not visible. <u>See, for example</u>, the present Application, paragraph [0043], Figure 5.

P. Dependent Claim 2

2. (Currently Amended) An interface <u>display</u> as recited in claim 1, wherein the region comprises a menu having visible menu edge.

Support: <u>See, for example,</u> the present Application, Figure 1, reference numeral 10.

Claim 2 depends from claim 1 and recites wherein the region comprises a menu having a visible menu edge. <u>See, for example,</u> the present Application, paragraph [0034], Figure 1,

reference numeral 10.

Q. Dependent Claim 3

>   3.   (Currently Amended) An interface <u>display</u> as recited in claim 1, wherein the region comprises one of a linear menu, a menu with an embedded marking menu, a tool palette, a color palette, a pan-zoom tool, a pen-mouse, a keyboard, a numeric pad, one or more buttons, sliders, checkboxes, pull-down menu, a dialog box, and an alternative view.
>
>   ***Support***: <u>See, for example,</u> the present Application, paragraph [0059], Figures 22-30.

Claim 3 depends from claim 1 and recites wherein the region comprises one of a linear menu, a menu with an embedded marking menu, a tool palette, a color palette, a pan-zoom tool, a pen-mouse, a keyboard, a numeric pad, one or more buttons, sliders, checkboxes, pull-down menu, a dialog box, and an alternative view. <u>See, for example,</u> the present Application, paragraph [0059], Figures 22-30.

R. Dependent Claim 4

>   4.   (Currently Amended) An interface <u>display</u> as recited in claim 1, wherein the controls of the interface further comprise a control changed in appearance when the tracking symbol is over the control and is active.
>
>   ***Support***: <u>See, for example,</u> the present Application, paragraph [0035], Figure 2b, reference numeral 13.

Claim 4 depends from claim 1 and recites wherein the controls of the interface further comprise a control changed in appearance when the tracking symbol is over the control and is active. <u>See, for example,</u> the present Application, paragraph [0035], Figure 2b, reference numeral 13.

S. Dependent Claim 5

>   5.   (Currently Amended) An interface <u>display</u> as recited in claim 1, wherein the region is semi-transparent when the tracking symbol is inactive and transparent when the tracking symbol is active.
>
>   ***Support***: <u>See, for example,</u> the present Application, paragraphs [0042]-[0043], Figure 5.

Claim 5 depends from claim 1 and recites wherein the region is semi-transparent when the tracking symbol is inactive and transparent when the tracking symbol is active. <u>See, for example,</u> the present Application, paragraphs [0042]-[0043], Figure 5.

T. Dependent Claim 6

6.   (Currently Amended) An interface <u>display</u> as recited in
claim 1, wherein the tracking symbol can be activated by the user
and performs a selected function when active.

Support: <u>See, for example</u>, the present Application,
paragraph [0045], Figures 6a-6f, reference numerals 80, 82, 84.

Claim 6 depends from claim 1 and recites wherein the tracking symbol can be activated
by the user and performs a selected function when active. <u>See, for example</u>, the present
Application, paragraph [0045], Figures 6a-6f, reference numerals 80, 82, 84.

U. Dependent Claim 7

7.   (Currently Amended) An interface <u>display</u> as recited in
claim 6, wherein a selected function is performed when the
tracking symbol is active.

Support: <u>See, for example</u>, the present Application,
paragraphs [0045], Figures 6a-6f, reference numerals, 80, 82, 84.

Claim 7 depends from claim 6 and recites wherein a selected function is performed when
the tracking symbol is active. <u>See, for example</u>, the present Application, paragraphs [0045],
Figures 6a-6f, reference numerals 80, 82, 84.

V. Dependent Claim 8

8.   (Currently Amended) An interface <u>display</u> as recited in
claim 6, wherein the transducer corresponds to a stylus, the
tracking symbol and region are displayed on a tablet display, and
the tracking symbol is activated when the stylus touches the tablet.

Support: <u>See, for example</u>, the present Application,
paragraph [0038], Figure 4, reference numerals 62, 64, 68, 70.

Claim 8 depends from claim 6 and recites wherein the transducer corresponds to a
stylus, the tracking symbol and region are displayed on a tablet display, and the tracking symbol
is activated when the stylus touches the tablet. <u>See, for example</u>, the present Application,
paragraph [0038], Figure 4, reference numerals 62, 64, 68, 70.

W. Dependent Claim 9

9.   (Currently Amended) An interface <u>display</u> as recited in
claim 6, wherein the tracking symbol is inactive when the stylus is
not touching the tablet.

Support: <u>See, for example</u>, the present Application, paragraph
[0041], Figure 5.

Claim 9 depends from claim 6 and recites wherein the tracking symbol is inactive when
the stylus is not touching the tablet. <u>See, for example</u>, the present Application, paragraph

[0041], Figure 5.

X. Dependent Claim 10

> 10.   (Currently Amended) An interface <u>display</u> as recited in claim 6, wherein the transducer corresponds to a mouse having a mouse button, the tracking symbol and region are displayed on a tablet display, and the tracking symbol is activated when the mouse is one of moved and activated.
>
> ***Support***: <u>See, for example</u>, the present Application, paragraph [0047], reference numeral 170.

Claim 10 depends from claim 6 and recites wherein the transducer corresponds to a mouse having a mouse button, the tracking symbol and region are displayed on a tablet display, and the tracking symbol is activated when the mouse is one of moved and activated. <u>See, for example</u>, the present Application, paragraph [0050], reference numeral 170.

Y. Dependent Claim 11

> 11.   (Currently Amended) An interface <u>display</u> as recited in claim 1, wherein the positioning corresponding to the motion of the input transducer stops under a predetermined condition and the region is repositioned corresponding to the tracking symbol when the condition no longer exists.
>
> ***Support***: <u>See, for example</u>, the present Application, paragraph [0039], Figure 5, reference numeral 66.

Claim 11 depends from claim 1 and recites wherein the positioning corresponding to the motion of the input transducer stops under a predetermined condition and the region is repositioned corresponding to the tracking symbol when the condition no longer exists. <u>See, for example</u>, the present Application, paragraph [0039], Figure 5, reference numeral 66..

Z. Dependent Claim 12

> 12.   (Currently Amended) An interface <u>display</u> as recited in claim 11, wherein the repositioning positions the menu a least Euclidean distance from the prior position.
>
> ***Support***: <u>See, for example,</u> the present Application, paragraph [0040], reference numeral 90.

Claim 12 depends from claim 11 and recites wherein the repositioning positions the menu a least Euclidean distance from the prior position. <u>See, for example</u>, the present Application, paragraph [0040], reference numeral 90.

AA. Dependent Claim 13

> 13.   (Currently Amended) An interface <u>display</u> as recited in

claim 11, wherein the predetermined condition is a stylus out-of-range condition.

Support: See, for example, the present Application, paragraph [0039], Figure 5, reference numeral 66.

Claim 13 depends from claim 11 and recites wherein the predetermined condition is a stylus out-of-range condition. See, for example, the present Application, paragraph [0039], Figure 5, reference numeral 66.

BB. Dependent Claim 14

14.   (Currently Amended) An interface display as recited in claim 1, wherein the boundary is maintained around the symbol.

Support: See, for example, the present Application, paragraph [0035], Figure 2c, reference numerals 14 and 22.

Claim 14 depends from claim 1 and recites wherein the boundary is maintained around the symbol. See, for example, the present Application, paragraph [0035], Figure 2c, reference numerals 14 and 22.

CC. Dependent Claim 15

15.   (Currently Amended) An interface display as recited in claim 1, wherein the symbol is allowed to cross the boundary while moving and boundary surrounds the symbol when the symbol is not moving.

Support: See, for example, the present Application, paragraph [0035], Figure 2c, reference numerals 14 and 22.

Claim 15 depends from claim 1 and recites wherein the symbol is allowed to cross the boundary while moving and the boundary surrounds the symbol when the symbol is not moving. See, for example, the present Application, paragraph [0035], Figure 2c, reference numerals 14 and 22.

DD. Dependent Claim 16

16.   (Currently Amended) An interface display as recited in claim 1, wherein the user designates that the region be held in place when the symbol crosses the boundary.

Support: See, for example, the present Application, paragraph [0048], Figure 8b, reference numerals 132 and 134.

Claim 16 depends from claim 1 and recites wherein the user designates that the region be held in place when the symbol crosses the boundary.

EE. Dependent Claim 17

17.   (Currently Amended) An interface <u>display</u> as recited in claim 16, wherein the interface comprises an outline of the mobile tracking region when the tracking symbol is over a persistent object.

Support: <u>See, for example</u>, the present Application, paragraph [0051], Figure 11b, reference numeral 218.

Claim 17 depends from claim 16 and recites wherein the interface comprises an outline of the mobile tracking region when the tracking symbol is over a persistent object. <u>See, for example</u>, the present Application, paragraph [0051], Figure 11b, reference numeral 218.

FF. Dependent Claim 18

18.   (Currently Amended) An interface <u>display</u> as recited in claim 17, wherein the interface is clipped when the tracking symbol exits the persistent object.

Support: <u>See, for example</u>, the present Application, paragraph [0051], Figure 11c, reference numerals 210, 214.

Claim 18 depends from claim 17 and recites wherein the interface is clipped when the tracking symbol exits the persistent object. <u>See, for example</u>, the present Application, paragraph [0051], Figure 11c, reference numerals 210, 214.

GG. Dependent Claim 19

19.   (Currently Amended) An interface <u>display</u> as recited in claim 1, wherein the mobile tracking region deforms corresponding to a shape of a persistent object when the symbol comes in a vicinity of a persistent object or display edge.

Support: <u>See, for example</u>, the present Application, paragraph [0054], Figure 13c, reference numeral 252.

Claim 19 depends from claim 1 and recites wherein the mobile tracking region deforms corresponding to a shape of a persistent object when the symbol comes in a vicinity of a persistent object or display edge. <u>See, for example</u>, the present Application paragraph [0054], Figure 13c, reference numeral 252.

HH. Dependent Claim 20

20.   (Currently Amended) An interface <u>display</u> as recited in claim 1, further comprising an interior tracking boundary interior to the region boundary and the region moving in correspondence to the tracking symbol when the tracking symbol encounters the interior tracking boundary.

Support: <u>See, for example</u>, the present Application, paragraph [0057], Figure 15, reference numeral 290.

Claim 20 depends from claim 1 further includes an interior tracking boundary interior to

the region boundary and the region moving in correspondence to the tracking symbol when the tracking symbol encounters the interior tracking boundary. See, for example, the present Application, paragraph [0057], Figure 15, reference numeral 290.

II. Dependent Claim 21

> 21.   (Currently Amended) An interface display as recited in claim 20, wherein the interior tracking boundary comprises a jutting wall.
>
> *Support*: See, for example, the present Application, paragraph [0057], Figure 17.

Claim 21 depends from claim 20 and recites wherein the interior tracking boundary comprises a jutting wall. See, for example, the present Application, paragraph [0057], Figure 17.

JJ. Dependent Claim 22

> 22.   (Currently Amended) An interface display as recited in claim 1, wherein the interface has a visible edge and the boundary corresponds to one of the visible edge, outside the visible edge, inside the visible edge and overlaps the visible edge.
>
> *Support*: See, for example, the present Application, paragraph [0057], Figure 16b, reference numerals 298 and 300.

Claim 22 depends from claim 1 and recites wherein the interface has a visible edge and the boundary corresponds to one of the visible edge, outside the visible edge, inside the visible edge and overlaps the visible edge. See, for example, the present Application, paragraph [0057], Figure 16b, reference numerals 298 and 300.

KK. Dependent Claim 23

> 23.   (Currently Amended) An interface display as recited in claim 1, wherein control activation requires a dwell by the tracking symbol.
>
> *Support*: See, for example, the present Application, paragraph [0059].

Claim 23 depends from claim 1 and recites wherein control activation requires a dwell by the tracking symbol. See, for example, the present Application, paragraph [0059].

LL. Dependent Claim 24

> 24.   (Currently Amended) An interface display as recited in claim 1, wherein control functionality is context sensitive.
>
> *Support*: See, for example, the present Application, paragraph [0060].

Claim 24 depends from claim 1 and recites wherein control functionality is context

sensitive. <u>See, for example</u>, the present Application, paragraph [0060].

MM. Dependent Claim 26

> 26.   (Currently Amended) An interface <u>display</u> as recited in claim 25, wherein the first and second tracking symbol positions correspond.
>
> ***Support***: <u>See, for example</u>, the present Application, paragraph [0059], Figure 23.

Claim 26 depends from claim 25 and recites wherein the first and second tracking symbol positions correspond. <u>See, for example</u>, the present Application, paragraph [0059], Figure 23.

NN. Dependent Claim 27

> 27.   (Currently Amended) An interface <u>display</u> as recited in claim 25, wherein the objects comprise controls.
>
> ***Support***: <u>See, for example</u>, the present Application, paragraph [0034], Figure 1, reference numerals 12 and 13.

Claim 27 depends from claim 25 and recites wherein the objects comprise controls. <u>See, for example</u>, the present Application, paragraph [0034], Figure 1, reference numerals 12 and 13.

OO. Dependent Claim 29

> 29.   (original) An interface as recited in claim 28, further comprising a graphic object positioned between the menu and the display.
>
> ***Support***: <u>See, for example</u>, the present Application, paragraph [0051], Figure 11c.

Claim 29 depends from claim 28 and includes a graphic object positioned between the menu and the display. <u>See, for example</u>, the present Application, paragraph [0051], Figure 11c.

PP. Dependent Claim 30

> 30.   (original) An interface as recited in claim 28, further comprising a persistent graphic object positioned between tracking symbol and the menu.
>
> ***Support***: <u>See, for example</u>, the present Application, paragraph [0051], Figure 11c.

Claim 30 depends from claim 28 and includes a persistent graphic object positioned between tracking symbol and the menu. <u>See, for example</u>, the present Application, paragraph [0051], Figure 11c.

QQ. Dependent Claim 33

33.   (original) A method as recited in claim 32, further comprising allowing a user to select an item in the tracking menu without moving the tracking menu.

Support: See, for example, the present Application, paragraph [0048], Figures 8a and 8b.

Claim 33 depends from claim 32 and includes allowing a user to select an item in the tracking menu without moving the tracking menu. See, for example, the present Application, paragraph [0048], Figures 8a and 8b.

RR. Dependent Claim 34

34.   (original) A method as recited in claim 32, wherein movement of the tracking symbol is responsive to movement by the user of a stylus over a stylus sensing tablet and the moving of the tracking menu occurs when the stylus is in tracking range of the tablet.

Support: See, for example, the present Application, paragraphs [0040]-[0041], Figure 5.

Claim 34 depends from claim 32 wherein movement of the tracking symbol is responsive to movement by the user of a stylus over a stylus sensing tablet and the moving of the tracking menu occurs when the stylus is in tracking range of the tablet. See, for example, the present Application, paragraphs [0040]-[0041], Figure 5.

SS. Dependent Claim 35

35.   (original) A method as recited in claim 34, further comprising making the tracking menu transparent when the stylus touches the tablet.

Support: See, for example, the present Application, paragraph [0043], Figure 5, reference numeral 70.

Claim 35 depends from claim 34 and further includes making the tracking menu transparent when the stylus touches the tablet. See, for example, the present Application, paragraph [0043], Figure 5, reference numeral 70.

TT. Dependent Claim 36

36.   (original) A method as recited in claim 35, further comprising performing a graphic function corresponding to motion of the stylus when the menu is transparent.

Support: See, for example, the present Application, paragraph [0045], Figures 6c, reference numerals 82 and 86.

Claim 36 depends from claim 35 and further includes performing a graphic function

corresponding to motion of the stylus when the menu is transparent. See, for example, the present Application, paragraph [0045], Figure 6c, reference numerals 82 and 86.

UU. Dependent Claim 37

> 37.   (original) A method as recited in claim 36, wherein the function is makes a mark on the display.
>
> *Support*: See, for example, the present Application, paragraph [0045], Figure 6c, reference numerals 82 and 86.

Claim 37 depends from claim 36 and recites the function is makes a mark on the display. See, for example, the present Application, paragraph [0045], Figure 6c, reference numerals 82 and 86.

VV. Dependent Claim 38

> 38.   (original) A method as recited in claim 32, wherein movement of the tracking symbol is responsive to movement by the user of a stylus over a stylus sensing tablet and further comprising positioning the tracking menu in correspondence when the stylus comes into tracking range.
>
> *Support*: See, for example, the present Application, paragraphs [0040]-[0041], Figure 5, reference numeral 68.

Claim 38 depends from claim 32 and recites wherein movement of the tracking symbol is responsive to movement by the user of a stylus over a stylus sensing tablet and further comprising positioning the tracking menu in correspondence when the stylus comes into tracking range. See, for example, the present Application, paragraphs [0040]-[0041], Figure 5, reference numeral 68.

WW. Dependent Claim 39

> 39.   (original) A method as recited in claim 32, wherein movement of the tracking symbol is responsive to movement by the user of a stylus over a stylus sensing tablet and further comprising positioning the tracking menu in correspondence when the stylus ends contact with the tablet.
>
> *Support*: See, for example, the present Application, paragraph [0040]-[0041], Figure 5, reference numeral 66.

Claim 39 depends from claim 32 and recites wherein movement of the tracking symbol is responsive to movement by the user of a stylus over a stylus sensing tablet and further comprising positioning the tracking menu in correspondence when the stylus ends contact with the tablet. See, for example, the present Application, paragraph [0040]-[0041], Figure 5, reference numeral 66.

XX. Dependent Claim 40

> 40.   (original) A method as recited in claim 32, further comprising allowing the user to designate a position for the menu and allowing the tracking symbol to cross the edge without moving the menu.
>
> **Support**: <u>See, for example</u>, the present Application, paragraph [0048], Figures 8a and 8b, reference numeral 132.

Claim 30 depends from claim 32 and includes allowing the user to designate a position for the menu and allowing the tracking symbol to cross the edge without moving the menu. <u>See, for example</u>, the present Application, paragraph [0048], Figures 8a and 8b, reference numeral 132.

YY. Dependent Claim 41

> 41.   (original) A method as recited in claim 32, further comprising converting the menu to an outline when the symbol crosses a boundary of a persistent object.
>
> **Support**: <u>See, for example</u>, the present Application, paragraph [0051], Figure 11b, reference numeral 218.

Claim 41 depends from claim 32 and includes converting the menu to an outline when the symbol crosses a boundary of a persistent object. <u>See, for example</u>, the present Application, paragraph [0051], Figure 11b, reference numeral 218.

ZZ. Dependent Claim 42

> 42.   (original) A method as recited in claim 41, further comprising:
>
> converting the menu to a complete graphical menu when the symbol exist the persistent object; and
>
> clipping a portion of the complete graphical menu overlapping the persistent object.
>
> **Support**: <u>See, for example</u>, the present Application, paragraph [0051], Figure 11c, reference numeral 210.

Claim 42 depends from claim 41 and further includes converting the menu to a complete graphical menu when the symbol exist the persistent object. There is a typographical error in this claim: "exist" should be "exits." <u>See, for example</u>, the present Application, paragraph [0051], Figure 11c, reference numeral 210.

AAA. Dependent Claim 43

> 43.   (original) A method as recited in claim 32, further comprising deforming a shape of the menu to an outline when the

symbol approaches a boundary of a persistent object or display edge.

Support: <u>See, for example</u>, the present Application, paragraph [0054], Figure 13c, reference numeral 252.

Claim 43 depends from claim 32 and further includes deforming a shape of the menu to an outline when the symbol approaches a boundary of a persistent object or display edge. <u>See, for example</u>, the present Application, paragraph [0054], Figure 13c, reference numeral 252.

BBB. Dependent Claim 55

55.   (Currently Amended) An interface <u>display</u> as recited in claim 53, wherein the region moves in correspondence to the tracking symbol without activating a selection button on the input transducer.

Support: <u>See, for example</u>, the present Application, paragraph [0040], Figure 5, reference numerals 68, 90.

Claim 55 depends from claim 53 and recites wherein the region moves in correspondence to the tracking symbol without activating a selection button on the input transducer. <u>See, for example</u>, the present Application, paragraph [0040], Figure 5, reference numerals 68, 90.

CCC. Dependent Claim 56

56.   (Currently Amended) An interface <u>display</u> as recited in claim 53, wherein the menu boundary deforms when encountering a persistent object while moving on the display.

Support: <u>See, for example</u>, the present Application, paragraph [0054].

Claim 56 depends on claim 53 and recites wherein the menu boundary deforms when encountering a persistent object while moving on the display. <u>See, for example</u>, the present Application, paragraph [0054].

**VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL (37 C.F.R. §
41.37(c)(1)(vi))**

Claims 1-4, 6-11, 13-15, 20-28, 32-34, 37-38, and 44-54 are rejected under 35 U.S.C. §
103(a) as being unpatentable over Iwema et al. (U.S. Patent Number 7,058,902) in view of
Strauss (U.S. Patent Number 6,246,411).

Claims 35 and 36 are rejected under 35 U.S.C. § 103(a) as being unpatentable over
Iwema in view of Strauss and further in view of Beaton et al. (U.S. Patent Number 6,037,937).

Claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwema in view
of Strauss, further in view of Beaton, and further in view of Schirmer (U.S. Patent Number
6,369,837).

Claims 16 and 40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over
Iwema in view of Strauss, and further in view of Hoeber et al. (U.S. Patent Number 5,276,795).

Claims 12, 19, 29-30, 39, 43, and 55-56 are rejected under 35 U.S.C. § 103(a) as being
unpatentable over Iwema in view of Strauss, and further in view of Nicholas, III (U.S. Patent
Number 6,865,719).

Claims 17-18 and 41-42 are rejected under 35 U.S.C. § 103(a) as being unpatentable
over Iwema in view of Strauss, further in view of Hoeber, and further in view of Nicholas, III.

VII.   ARGUMENT (37 C.F.R. § 41.37(c)(1)(vii))

A. Review of the Prior Art
1. Iwema

Iwema discusses a method for selecting actions that can be performed with regard to an object having an associated representation on the display screen of a computer. Further, Iwema discusses displaying context menu choices in the form of icons allowing a user to make menu selections with a stylus.

2. Strauss

Strauss discusses a method for refining the function performed by a drag operation. After a drag operation begins, a "Drag Toolbar" appears with icon or button controls that change the current function of the drag operation when the cursor is moved over a selected control. Strauss further discusses that when the Drag Toolbar is initially displayed, in reasonably close proximity to the cursor, a "follow me" zone defined the found of a region around the Drag Toolbar. If the cursor is within the bounds of the "follow me" zone, the Drag Toolbar does not move, but if the cursor attempts to move past the "follow me" zone boundary, the Drag Toolbar follows the cursor across the user's display.

3. Beaton

Beaton discusses graphical control tools for efficient navigation in display devices such as an electronic device with a smaller display area such as an electronic organizer, a PDA, and a portable telephone. The method includes activating the graphical control tools when user input is received. Touch input is ignored unless the navigation control has been activated. Further, the navigation control is preferably transparent and activated by touching and holding the center for a predetermined time period.

4. Schirmer

Schirmer discusses a method for reducing screen clutter and operator efficiency by improving a control device of a computer display. Schirmer further discusses a group of "rollerballs" used to represent a set of operations. When the rollerballs are not being used, they may be semi-transparent, or low opacity, which minimizes the obstruction to the underlying window. When the rollerballs are activated, the rollerball which is being hovered over, or

preselected, increases in size. The preselected rollerball also becomes completely opaque and rollerballs adjacent increase in opacity.

5. Nicholas, III

Nicholas, III discusses displaying messages such as advertising messages on an electronic device's display which draws the attention of the user to the message without distracting the user from overall operation of the device. An ad message is displayed a distance from a cursor, but if that distance if off of the display area of a web page, the ad can reposition itself toward the center of the display screen.

6. Hoeber

Hoeber, III discusses a method which permits a user to selectively position a pointer at a desired position on a display, and signal the CPU of selections. Hoeber discusses a pushpin button that causes a menu to stay displayed on the screen regardless of other operations executed by the computer for display. When the user no longer desires the menu to be displayed, the user clicks the pushpin button. The user may also move the pushpin to any other object to be retained on the screen.

B. Rejection of Claims 1-4, 6-11, 13-15, 20-28, 32-34, 37-38, and 44-54 under 35 U.S.C. § 103(a) over Iwema and Strauss

1. Independent Claim 1

Independent claim 1 recites a graphical user interface display. Further, claim 1 recites a menu, on the display, having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, the region having controls with boundaries and activatable when the tracking symbol corresponds to the controls, and the menu is always visible when one of the controls is not activated and always not visible when one of the controls is activated.

The Office Action mailed December 11, 2008 noted on page 3 that Iwema does not teach the menu comprising a mobile tracking region having a region boundary coincident with the menu boundary and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving.

The Office Action mailed December 11, 2008 asserts that Strauss teaches the menu comprising a mobile tracking region having a region boundary and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, but admits that Strauss does not expressly teach that the region boundary is coincident with the menu boundary, but that it would have been obvious to one of ordinary skill in the art at the time the invention was made because Strauss suggests to the skilled artisan that different designs can be applied to the drag toolbar such that the drag toolbar can be in different shapes with different controls. The Examiner alleges that the "drag toolbar" 40 and the "follow me" zone in Figure 7 of Strauss enclose the cursor 4, and cites column 6, lines 59-67 of Strauss.

Strauss notes that "[a]fter a drag operation begins, a 'Drag Toolbar' appears with an icon or button controls that change the current function of the drag operation when the cursor is moved over a selected control." That is, the controls are always visible so that the function can be selected by moving over the desired control. Further, "the Drag Toolbar may be floating and have a "follow me" characteristic, where the Drag Toolbar moves so as to always be within a certain distance from the cursor, for the convenience of close access." Strauss discusses that "[o]ne of the principal advantages of the invention is that it provides an unambiguous way for a user to change the drag functionality of a cursor during a drag operation. Thus, a user need not memorize different keyboard modifier combinations, as in the prior art. Further, the graphical user interface is not cluttered, since the Drag Toolbar only appears when a drag operation is initiated." (See Strauss, column 2, lines 20-23, 44-48, 49-55). Thus, Strauss requires that to operate a control during a drag operation the control must be visible.

Column 6, lines 59-67 of Strauss specifically discusses that "shown in Fig. 7, a Drag Toolbar 40 is initially displayed in reasonably close proximity to the cursor, but has a "follow me" zone 42 which defines the bounds of a region around the Drag Toolbar 40. If the cursor is within the bounds of the "follow me" zone, the Drag Toolbar 40 does not move. However, if the cursor 4 attempts to move past the 'follow me' zone boundary, the Drag Toolbar 40 follows the cursor across the user's display." If Strauss were to modified as asserted by the Examiner to make the "follow me" boundary and "Drag Toolbar" boundaries coincident, if a user of Strauss were to start a drag event, and desire to change functionality by moving into the "Drag Toolbar" which would also be the "Follow Me" area during the drag, as the user tried to leave the "Drag Toolbar" after changing functionality, the "Drag Toolbar" would continue to follow the user's cursor and the user would then be trapped in the "Drag Toolbar" and not be able to leave the "Drag Toolbar" area.

Strauss specifically notes in column 3, line 66-column 4, line 10 that a user changes functionality (i.e. a COPY to a MOVE) during a drag by merely moving the cursor over a button in the drag toolbar, or clicking a different mouse button or releasing the currently depressed mouse button and pressing it again. Because the Drag Toolbar is displayed during the on going drag operation while the mouse button is depressed the user could also likely make unintended selections of other functions in the Drag Toolbar because the "Follow Me" zone boundary and 'Drag Toolbar' area would be made coincident. As the Drag Toolbar continues to stay very close to the mouse cursor, simply mousing over buttons in the Drag Toolbar, which inevitably would occur, would cause the functionality to flip-flop between MOVE and COPY, for example. Additionally, if the user does not move inside the coincident "Drag Toolbar" & "Follow me" boundaries, as the user moves away from the "Drag Toolbar," the Drag Toolbar would not be able to follow the user's cursor across the display and would simply stay stationary.

This is why Strauss specifically teaches that the Drag Toolbar has a separate and distant "follow me" zone 42 which is different from the boundary and far outside of the 'Drag Toolbar.'

Thus, "follow me" zone boundary of Strauss must be a particular distance away from the "Drag Toolbar" and cursor as shown in Figure 7. Such a modification to Strauss as suggested by the Examiner would actually make the Drag Toolbar less efficient to use, rather than more efficient, and inoperable for its intended function. Thus, one of ordinary skill in the art at the time of the invention would not have been motivated to make such a change to Strauss, and such a change certainly would not be obvious.

The above discussion will be made clearer by the Board interacting with a demonstration software program (StraussController.exe) and viewing a short demonstrational movie (StraussDrag.mov) both of which were submitted with the Applicant's response on a compact disc on September 15, 2008 and will be shown during the Applicant's oral argument with the permission of the Board. As it is much easier to see how this modification of Strauss would render its teaching unusable, the demo and movie clearly indicate why one of ordinary skill in the art at the time of the invention would not have been motivated to make the Drag Toolbar and Follow Me boundaries coincident.

In particular, the video illustrates performing a dragging task with the tracking menus of the claims of this Application as well as Strauss controllers as modified by the assertion of the Office Action.

The first scene in the video (tracking menu of Claim 1) shows that a menu having a boundary where the menu follows the cursor until a color is selected by the mouse button being

depressed where the menu disappears and the user is allowed to draw a purple line. As soon as the mouse button is no longer depressed, the menu reappears and continues to follow the cursor if the cursor tries to move outside the boundary.

The second scene shows Strauss without a Follow Me boundary and unmodified by the comments in the Office Action made by the Examiner. When a user depresses a mouse button and begins to drag, the Drag Toolbar appears and a user can make a selection by moving the cursor over a button in the Drag Toolbar.

The third scene of the video shows Strauss with the "distant" Follow Me boundary as discussed in Strauss but without the modification of the Office Action asserted by the Examiner. When a user depresses a mouse button and begins to drag, the Drag Toolbar appears and a user may make a selection by moving the cursor over one of the buttons in the Drag Toolbar. When the user reaches the Follow Me boundary, the Drag Toolbar begins to follow the cursor during the drag operation, causing an unintended selection of other buttons in the Drag Toolbar.

The fourth and final scene in the video shows Strauss as modified by the hindsight Office Action comments so that the Follow Me boundary is coincident with the Drag Toolbar. Once the user depresses a mouse button and begins to drag, the Drag Toolbar appears. If the user moves the cursor over one of the buttons in the Drag Toolbar, the current function changes. Because the Follow Me boundary is coincident with the Drag Toolbar, as the user continues to move the mouse away during the drag, the Drag Toolbar follows the cursor, causing unintended continual changes in the current functionality.

Additionally, although not shown, if the user never entered the coincident follow me Drag Toolbar boundaries, the Drag Toolbar would not follow the cursor at all.

In conclusion, while Strauss's menu is not displayed until the mouse is depressed, this is opposite of the claims of this Application, and the modification of the Follow Me toolbar, according to the hindsight Office Action comments results in the constant unintended changes of the current function.

The software demonstration allows members of the Board to try both an example of the distinctive features of the claims of this Application as well as the hindsight modified version of Strauss as shown in the video discussed above.

The Examiner, on page 24 of the Office Action mailed December 11, 2008 has asserted that "it would have been obvious to a person of ordinary skill in the art **to try** to match the region boundary with the menu boundary in an attempt to provide an end user with a visual cue as to

what the tracking boundary is, [so] that the end user can use the menu more efficiently." In light of the discussion above, video and demonstration, if one did try to make both the follow me and drag toolbar boundaries, coincident, one would realize that this would make Strauss's Drag Toolbar unusable. Although the Supreme Court has recently indicated that an "obvious to try" rationale is permissible in an obviousness rejection, this is an improper "obvious to try" rationale, as such a "try" clearly would make Strauss's Drag Toolbar nearly impossible to use. (See MPEP, 2145 and *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 421, 82 USPQ2d 1385, 1397 (2007)). Thus, even if one of ordinary skill were to try such a modification, the modification would not be successful.

As noted in MPEP 2143.01,"if proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). As discussed above, by making the "Drag Toolbar" and follow me boundaries coincident, this would effectively render Strauss unsatisfactory for its intended purpose of providing the "Drag Toolbar" "so as always to be within a certain distance from the cursor." Either the "Drag Toolbar" would stay continually with the cursor once the cursor enters the "Drag Toolbar" rather than stay a specified distance from the cursor, or fail to follow the cursor at all if modified as asserted by the Examiner.

In light of the above discussion, Examiner has failed to establish a *prima facie* case of obviousness because nothing cited or found in Iwema and Strauss, as modified by the Examiner's assertion, taken alone and in combination teaches the menu comprising a mobile tracking region having a region boundary coincident with the menu boundary and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving. Furthermore, the Office Action entirely failed to address the features related to the tracking symbol being movable within the coincident boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the coincident boundary while moving.

Furthermore, nothing cited or found in Iwema teaches "the menu is always visible when one of the controls is not activated and always not visible when one of the controls is activated, and the menu tracks the tracking symbol when the menu is not visible." Strauss also clearly does not teach this feature because Strauss does just the opposite. Iwema merely discusses in column 8, lines 11-35:

To perform the desired action upon the object, an aspect of the present invention allows the user to initiate a context menu for the object. The context menu may present the user with all or a subset of all the possible actions applicable to the object. FIG. 3 shows a context menu according to one embodiment of the invention. The user has created an object having associated ink **302** , selected the object by drawing outline **304** or otherwise selecting the object, and then initiated context menu **306** . The user may have initiated context menu **306** by performing a certain stylus gesture, by pressing a particular button on the stylus (e.g., a button analogous to a "right-click" with a mouse), or in some other manner known in the art. Notably, the invention does not require that the user first identify the object to be acted upon and then initiate context menu **306** . As one alternative, the user could first initiate context menu **306** and then be prompted to identify the object to be acted upon. As another alternative, the user may have previously activated context menu **306** , and then "pinned" it to the active document. In such an alternative embodiment, context menu **306** might remain at a corner of the display (or other unobtrusive location), and then be "dragged" over ink associated with the object to be acted upon. This embodiment is also shown in FIG. 5, with the menu **306** ' representing the menu prior to being moved to ink **302** .

In other words, a user can initiate a context menu, and it is presented on the display. Iwema further notes in column 11, lines 5-12 that "the menus could optionally be configured such that, whenever a user makes a menu choice that does not have an associated lower level menu, the menu having that choice disappears, but all higher level menus remain. For example, if the user chose "blue" in FIG. 6E, menu **546** might disappear, but menu **536** could remain so as to allow further choices from menu **536**." In other words, if a user makes a selection in a menu and that menu choice does not have an associated lower level menu, the menu disappears. The cited portions of Iwema have been cited by the Examiner in the Office Action mailed December 11, 2008 as teaching "the menu is always visible when one of the controls is not activated and always not visible when one of the controls is activated, and the menu tracks the tracking symbol when the menu is not visible." However, Iwema merely notes that a user can initiate a context menu, and when a user makes a selection of a menu choice that does not have a lower level, the menu disappears.

Thus, independent claim 1 patentably distinguishes over Iwema and Strauss.

2. Independent Claim 53

Independent claim 53 recites a graphical user interface display. Further, claim 53 recites a menu, on the display, having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary and enclosing the tracking symbol with

the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, the region having controls with boundaries and activatable when the tracking symbol corresponds to the controls.

The Office Action mailed December 11, 2008 noted on page 3 that Iwema does not teach the menu comprising a mobile tracking region having a region boundary and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving.

The Office Action mailed December 11, 2008 asserts that Strauss teaches the menu comprising a mobile tracking region having a region boundary coincident with the menu boundary and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, but admits that Strauss does not expressly teach that the region boundary is coincident with the menu boundary, but that it would have been obvious to one of ordinary skill in the art at the time the invention was made because Strauss suggests to the skilled artisan that different designs can be applied to the drag toolbar such that the drag toolbar can be in different shapes with the different controls. The Examiner alleges that the "drag toolbar" 40 and the "follow me" zone in Figure 7 of Strauss enclose the cursor 4, and cites column 6, lines 59-67 of Strauss.

Strauss notes that "[a]fter a drag operation begins, a "Drag Toolbar" appears with an icon or button controls that change the current function of the drag operation when the cursor is moved over a selected control." Further, "the Drag Toolbar may be floating and have a "follow me" characteristic, where the Drag Toolbar moves so as to always be within a certain distance from the cursor, for the convenience of close access." Strauss discusses that "[o]ne of the principal advantages of the invention is that it provides an unambiguous way for a user to change the drag functionality of a cursor during a drag operation. Thus, a user need not memorize different keyboard modifier combinations, as in the prior art. Further, the graphical user interface is not cluttered, since the Drag Toolbar only appears when a drag operation is initiated." (See Strauss, column 2, lines 20-23, 44-48, 49-55).

Column 6, lines 59-67 of Strauss specifically discusses that "shown in Fig. 7, a Drag Toolbar 40 is initially displayed in reasonably close proximity to the cursor, but has a "follow me" zone 42 which defines the bounds of a region around the Drag Toolbar 40. If the cursor is within

the bounds of the "follow me" zone, the Drag Toolbar 40 does not move. However, if the cursor 4 attempts to move past the 'follow me' zone boundary, the Drag Toolbar 40 follows the cursor across the user's display." The discussion of the video and software demonstration above is applicable to claim 53.

If Strauss were to modified as asserted by the Examiner to make the "follow me" boundary and "Drag Toolbar" boundaries coincident, if a user of Strauss were to start a drag event, and desire to change functionality by moving into the "Drag Toolbar" which would also be the "Follow Me" area during the drag, as the user tried to leave the "Drag Toolbar" after changing functionality, the "Drag Toolbar" would continue to follow the user's cursor and the user would then be trapped in the "Drag Toolbar" and not be able to leave the "Drag Toolbar" area. The user could also likely make unintended selections of other functions in the Drag Toolbar because the "Follow Me" zone boundary and "Drag Toolbar" area would be made coincident. Additionally, if the user does not move inside the coincident "Drag Toolbar" & "follow me" boundaries, as the user moves away from the "Drag Toolbar," the Drag Toolbar would not be able to follow the user's cursor across the display and would simply stay stationary.

This is why Strauss specifically teaches that the Drag Toolbar has a separate "follow me" zone 42 which is different from the boundary of the "Drag Toolbar."

Thus, "follow me" zone boundary of Strauss must be a particular distance away from the "Drag Toolbar" and cursor as shown in Figure 7. Such a modification to Strauss as suggested by the Examiner would actually make the Drag Toolbar less efficient to use, rather than more efficient, and inoperable for its intended function. Thus one of ordinary skill in the art at the time of the invention would not have been motivated to make such a change to Strauss, and such a change certainly would not be obvious.

Additionally, the Examiner, on page 24 of the Office Action mailed December 11, 2008 has asserted that "it would have been obvious to a person of ordinary skill in the art **to try** to match the region boundary with the menu boundary in an attempt to provide an end user with a visual cue as to what the tracking boundary is, [so] that the end user can use the menu more efficiently." However, if one did try to make both the follow me and drag toolbar boundaries coincident, one would realize that this would make Strauss's Drag Toolbar unusable as discussed above. Although the Supreme Court has recently indicated that an "obvious to try" rationale is permissible in an obviousness rejection, this is an improper "obvious to try" rationale, as such a "try" clearly would make Strauss's Drag Toolbar nearly impossible to use. (See MPEP, 2145 and *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 421, 82 USPQ2d 1385, 1397

(2007)). Thus, even if one of ordinary skill were to try such a modification, the modification would not be successful.

As noted in MPEP 2143.01, "if proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). As discussed above, by making the "Drag Toolbar" and follow me boundaries coincident, this would effectively render Strauss unsatisfactory for its intended purpose of providing the "Drag Toolbar" "so as always to be within a certain distance from the cursor." Either the "Drag Toolbar" would stay continually with the cursor once the cursor enters the "Drag Toolbar" rather than stay a specified distance from the cursor, or fail to follow the cursor at all if modified as asserted by the Examiner.

In light of the above discussion, Examiner has failed to establish a *prima facie* case of obviousness because nothing cited or found in Iwema and Strauss, as modified by the Examiner's assertion, taken alone and in combination teaches the menu comprising a mobile tracking region having a region boundary coincident with the menu boundary and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving.

Thus, independent claim 53 patentably distinguishes over Iwema and Strauss.

3. Independent Claim 54

Independent claim 54 recites a graphical user interface display. Further, claim 54 recites a menu, on the display, having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, the region having controls with boundaries and activatable when the tracking symbol corresponds to the controls, the menu is always visible when one of the controls is not activated and always not visible when one of the controls is activated, and the menu tracks the tracking symbol when the menu is not visible.

Claim 54 emphasizes the features of "a menu, on the display, having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary and enclosing the tracking symbol with the tracking symbol being movable within the

boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, the region having controls with boundaries and activatable when the tracking symbol corresponds to the controls" found in claims 1 and 53 and emphasizes a further additionally distinguishing feature. In particular, the Office Action on page 3, and previous Office Actions have failed to address the limitation "the menu tracks the tracking symbol when the menu is not visible." As is clearly shown in the video and discussed above, the Drag Toolbar of Strauss tracks the cursor only while Drag Toolbar is visible. However, claim 54 recites "the menu tracks the tracking symbol when the menu is not visible." Iwema is also entirely silent regarding "the menu tracks the tracking symbol when the menu is not visible" and merely discusses a context menu that is initiated by performing a stylus gesture. (See Iwema, column 8, lines 19-23).

Thus independent claim 54 patentably distinguishes over Iwema and Strauss.

4.   Independent Claim 25

Independent claim 25 recites an interface display. Further, claim 25 recites a second tracking symbol containing the first tracking symbol, having a second tracking symbol position controlled by the first tracking symbol and having objects selectable by the first tracking symbol, the second tracking symbol having a menu containing the selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated.

The Office Action mailed December 11, 2008 noted on page 5 that claim 25 is rejected along a similar rationale as claims 46 and 48 as applied to claim 1. The Office Action further asserted that Strauss teaches the above claim limitations, and cited the drag toolbar 40, "follow me" zone 42 of Strauss as well as column 6, lines 59-67 of Strauss. The Office Action also cited control buttons 8 and 9 shown in Figure 1B of Strauss.

However, claim 25 recites distinguishing features which are different from claims 46, 48, and 1. In particular, claim 25 recites "the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated." The Office Action fails to assert that Iwema and Strauss teach this claim feature, and paraphrases claim 25. The Office Action merely refers to claim 1. However, claim 1 recites rather differently from claim 25.

Claim 25 emphasizes the features of "the second tracking symbol having a menu containing the selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated" found in claims 1 and 54 and emphasizes a further additionally distinguishing feature. In particular, claim 25 recites "objects selectable by the first tracking symbol, the second tracking symbol having a menu containing the selectable objects," which is not taught by Iwema and Strauss.

Thus independent claim 25 patentably distinguishes over Iwema and Strauss.

5. Independent Claim 46

Independent claim 46 is directed to an apparatus having a display and a position transducer. Further, claim 46 recites "a computer coupled to the display and the transducer, and producing for display a first tracking symbol having a first tracking symbol position controllable by the transducer and a second tracking symbol containing the first tracking symbol, having a second tracking symbol position controlled by the position of the first tracking symbol and having controls selectable by the first tracking symbol, the second tracking symbol having a menu containing selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary."

The Office Action mailed December 11, 2008 noted on page 5 that claim 46 is rejected along a similar rationale claims 25 and 48 as applied to claim 1. The Office Action further asserted that Strauss teaches the above claim limitations, and cited the drag toolbar 40, "follow me" zone 42 of Strauss as well as column 6, lines 59-67 of Strauss. The Office Action also cited control buttons 8 and 9 shown in Figure 1B of Strauss.

The Office Action mailed December 11, 2008 asserts that Strauss teaches the menu comprising a mobile tracking region having a region boundary and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, but admits that Strauss does not expressly teach that the region boundary is coincident with the menu boundary, but that it would have been obvious to one of ordinary skill in the art at the time the invention was made because Strauss suggests to the skilled artisan that different designs can be applied to the drag toolbar such that the drag toolbar can be in different shapes with different controls. The Examiner alleges that the "drag toolbar" 40 and the "follow me" zone in Figure 7 of Strauss enclose the cursor 4, and cites column 6, lines 59-67 of Strauss.

Strauss notes that "[a]fter a drag operation begins, a "Drag Toolbar" appears with an icon or button controls that change the current function of the drag operation when the cursor is moved over a selected control." Further, "the Drag Toolbar may be floating and have a "follow me" characteristic, where the Drag Toolbar moves so as to always be within a certain distance from the cursor, for the convenience of close access." Strauss discusses that "[o]ne of the principal advantages of the invention is that it provides an unambiguous way for a user to change the drag functionality of a cursor during a drag operation. Thus, a user need not memorize different keyboard modifier combinations, as in the prior art. Further, the graphical user interface is not cluttered, since the Drag Toolbar only appears when a drag operation is initiated." (See Strauss, column 2, lines 20-23, 44-48, 49-55).

Column 6, lines 59-67 of Strauss specifically discusses that "shown in Fig. 7, a Drag Toolbar 40 is initially displayed in reasonably close proximity to the cursor, but has a "follow me" zone 42 which defines the bounds of a region around the Drag Toolbar 40. If the cursor is within the bounds of the "follow me" zone, the Drag Toolbar 40 does not move. However, if the cursor 4 attempts to move past the 'follow me' zone boundary, the Drag Toolbar 40 follows the cursor across the user's display." The video and demonstration clearly show that Strauss cannot be modified as asserted by the Office Action.

If Strauss were to modified as asserted by the Examiner to make the "follow me" boundary and "Drag Toolbar" boundaries coincident, if a user of Strauss were to start a drag event, and desire to change functionality by moving into the "Drag Toolbar" which would also be the "Follow Me" area during the drag, as the user tried to leave the "Drag Toolbar" after changing functionality, the "Drag Toolbar" would continue to follow the user's cursor and the user would then be trapped in the "Drag Toolbar" and not be able to leave the "Drag Toolbar" area. The user could also likely make unintended selections of other functions in the Drag Toolbar because the "Follow Me" zone boundary and "Drag Toolbar" area would be made coincident. Additionally, if the user does not move inside the coincident "Drag Toolbar" & "follow me" boundaries, as the user moves away from the "Drag Toolbar," the Drag Toolbar would not be able to follow the user's cursor across the display and would simply stay stationary.

This is why Strauss specifically teaches that the Drag Toolbar has a separate "follow me" zone 42 which is different from the boundary of the "Drag Toolbar."

Thus, "follow me" zone boundary of Strauss must be a particular distance away from the "Drag Toolbar" and cursor as shown in Figure 7. Such a modification to Strauss as suggested by the Examiner would actually make the Drag Toolbar less efficient to use, rather than more

efficient, and inoperable for its intended function. Thus one of ordinary skill in the art at the time of the invention would not have been motivated to make such a change to Strauss, and such a change certainly would not be obvious.

Additionally, the Examiner, on page 24 of the Office Action mailed December 11, 2008 has asserted that "it would have been obvious to a person of ordinary skill in the art **to try** to match the region boundary with the menu boundary in an attempt to provide an end user with a visual cue as to what the tracking boundary is, [so] that the end user can use the menu more efficiently." However, if one did try to make both the follow me and drag toolbar boundaries, concident, one would realize that this would make Strauss's Drag Toolbar unusable as discussed above. Although the Supreme Court has recently indicated that an "obvious to try" rationale is permissible in an obviousness rejection, this is an improper "obvious to try" rationale, as such a "try" clearly would make Strauss's Drag Toolbar nearly impossible to use. (See MPEP, 2145 and *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 421, 82 USPQ2d 1385, 1397 (2007)). Thus, even if one of ordinary skill were to try such a modification, the modification would not be successful.

As noted in MPEP 2143.01, "if proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). As discussed above, by making the "Drag Toolbar" and follow me boundaries coincident, this would effectively render Strauss unsatisfactory for its intended purpose of providing the "Drag Toolbar" "so as always to be within a certain distance from the cursor." Either the "Drag Toolbar" would stay continually with the cursor once the cursor enters the "Drag Toolbar" rather than stay a specified distance from the cursor, or fail to follow the cursor at all if modified as asserted by the Examiner.

In light of the above discussion, Examiner has failed to establish a *prima facie* case of obviousness because nothing cited or found in Iwema and Strauss, as modified by the Examiner's assertion, taken alone and in combination teaches "a computer coupled to the display and the transducer, and producing for display a first tracking symbol having a first tracking symbol position controllable by the transducer and a second tracking symbol containing the first tracking symbol, having a second tracking symbol position controlled by the position of the first tracking symbol and having controls selectable by the first tracking symbol, the second tracking symbol having a menu containing selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the

menu boundary, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated. " In particular, as discussed above, Strauss cannot teach "a mobile tracking region having a region boundary coincident with the menu boundary."

Furthermore, nothing cited or found in Iwema teaches "the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated." Iwema merely discusses in column 8, lines 11-35:

> To perform the desired action upon the object, an aspect of the present invention allows the user to initiate a context menu for the object. The context menu may present the user with all or a subset of all the possible actions applicable to the object. FIG. 3 shows a context menu according to one embodiment of the invention. The user has created an object having associated ink **302** , selected the object by drawing outline **304** or otherwise selecting the object, and then initiated context menu **306** . The user may have initiated context menu **306** by performing a certain stylus gesture, by pressing a particular button on the stylus (e.g., a button analogous to a "right-click" with a mouse), or in some other manner known in the art. Notably, the invention does not require that the user first identify the object to be acted upon and then initiate context menu **306** . As one alternative, the user could first initiate context menu **306** and then be prompted to identify the object to be acted upon. As another alternative, the user may have previously activated context menu **306** , and then "pinned" it to the active document. In such an alternative embodiment, context menu **306** might remain at a corner of the display (or other unobtrusive location), and then be "dragged" over ink associated with the object to be acted upon. This embodiment is also shown in FIG. 5, with the menu **306** ' representing the menu prior to being moved to ink **302** .

In other words, a user can initiate a context menu, and it is presented on the display. Iwema further notes in column 11, lines 5-12 that "the menus could optionally be configured such that, whenever a user makes a menu choice that does not have an associated lower level menu, the menu having that choice disappears, but all higher level menus remain. For example, if the user chose "blue" in FIG. 6E, menu **546** might disappear, but menu **536** could remain so as to allow further choices from menu **536**." In other words, if a user makes a selection in a menu and that menu choice does not have an associated lower level menu, the menu disappears. The cited portions of Iwema have been cited by the Examiner in the Office Action mailed December 11, 2008 as teaching "the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated." However, Iwema merely notes that a user can initiate a context menu, and when a user makes a selection of a menu choice that does not have a lower level, the menu disappears.

In addition, claim 46 recites "a computer coupled to the display and transducer and producing for display a first tracking symbol position controllable by the transducer and a second tracking symbol containing the first tracking symbol" which is not taught or suggested by Iwema and Strauss.

Thus independent claim 46 patentably distinguishes over Iwema and Strauss.

6. Independent Claim 48

Claim 48 is directed to a computer readable storage. Further, claim 48 recites "controlling a computer with a first tracking symbol having a first tracking symbol position controllable by the user; and a second tracking symbol containing the first tracking symbol, having a second tracking symbol position controlled by the first tracking symbol and having a menu with objects selectable by the first tracking symbol with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated."

The Office Action mailed December 11, 2008 noted on page 5 that claim 48 is rejected along a similar rationale as claims 25 and 46 as applied to claim 1. The Office Action further asserted that Strauss teaches the above claim limitations, and cited the drag toolbar 40, "follow me" zone 42 of Strauss as well as column 6, lines 59-67 of Strauss. The Office Action also cited control buttons 8 and 9 shown in Figure 1B of Strauss.

The Office Action mailed December 11, 2008 asserts that Strauss teaches the menu comprising a mobile tracking region having a region boundary and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, but admits that Strauss does not expressly teach that the region boundary is coincident with the menu boundary, but that it would have been obvious to one of ordinary skill in the art at the time the invention was made because Strauss suggests to the skilled artisan that different designs can be applied to the drag toolbar such that the drag toolbar can be in different shapes with different controls. The Examiner alleges that the "drag toolbar" 40 and the "follow me" zone in Figure 7 of Strauss enclose the cursor 4, and cites column 6, lines 59-67 of Strauss.

Strauss notes that "[a]fter a drag operation begins, a "Drag Toolbar" appears with an icon or button controls that change the current function of the drag operation when the cursor is moved over a selected control." Further, "the Drag Toolbar may be floating and have a "follow

me" characteristic, where the Drag Toolbar moves so as to always be within a certain distance from the cursor, for the convenience of close access." Strauss discusses that "[o]ne of the principal advantages of the invention is that it provides an unambiguous way for a user to change the drag functionality of a cursor during a drag operation. Thus, a user need not memorize different keyboard modifier combinations, as in the prior art. Further, the graphical user interface is not cluttered, since the Drag Toolbar only appears when a drag operation is initiated." (See Strauss, column 2, lines 20-23, 44-48, and 49-55).

Column 6, lines 59-67 of Strauss specifically discusses that "shown in Fig. 7, a Drag Toolbar 40 is initially displayed in reasonably close proximity to the cursor, but has a "follow me" zone 42 which defines the bounds of a region around the Drag Toolbar 40. If the cursor is within the bounds of the "follow me" zone, the Drag Toolbar 40 does not move. However, if the cursor 4 attempts to move past the 'follow me' zone boundary, the Drag Toolbar 40 follows the cursor across the user's display." The video and demonstration clearly show that Strauss cannot be modified as asserted by the Office Action.

If Strauss were to be modified as asserted by the Examiner to make the "follow me" boundary and "Drag Toolbar" boundaries coincident, if a user of Strauss were to start a drag event, and desire to change functionality by moving into the "Drag Toolbar" which would also be the "Follow Me" area during the drag, as the user tried to leave the "Drag Toolbar" after changing functionality, the "Drag Toolbar" would continue to follow the user's cursor and the user would then be trapped in the "Drag Toolbar" and not be able to leave the "Drag Toolbar" area. The user could also likely make unintended selections of other functions in the Drag Toolbar because the "Follow Me" zone boundary and "Drag Toolbar" area would be made coincident. Additionally, if the user does not move inside the coincident "Drag Toolbar" & "follow me" boundaries, as the user moves away from the "Drag Toolbar," the Drag Toolbar would not be able to follow the user's cursor across the display and would simply stay stationary.

This is why Strauss specifically teaches that the Drag Toolbar has a separate "follow me" zone 42 which is different from the boundary of the "Drag Toolbar."

Thus, "follow me" zone boundary of Strauss must be a particular distance away from the "Drag Toolbar" and cursor as shown in Figure 7. Such a modification to Strauss as suggested by the Examiner would actually make the Drag Toolbar less efficient to use, rather than more efficient, and inoperable for its intended function. Thus one of ordinary skill in the art at the time of the invention would not have been motivated to make such a change to Strauss, and such a change certainly would not be obvious.

Additionally, the Examiner, on page 24 of the Office Action mailed December 11, 2008 has asserted that "it would have been obvious to a person of ordinary skill in the art **to try** to match the region boundary with the menu boundary in an attempt to provide an end user with a visual cue as to what the tracking boundary is, [so] that the end user can use the menu more efficiently." However, if one did try to make both the follow me and drag toolbar boundaries coincident one would realize that this would make Strauss's Drag Toolbar unusable as discussed above. Although the Supreme Court has recently indicated that an "obvious to try" rationale is permissible in an obviousness rejection, this is an improper "obvious to try" rationale, as such a "try" clearly would make Strauss's Drag Toolbar nearly impossible to use. (See MPEP, 2145 and *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 421, 82 USPQ2d 1385, 1397 (2007)). Thus, even if one of ordinary skill were to try such a modification, the modification would not be successful.

As noted in MPEP 2143.01, "if proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). As discussed above, by making the "Drag Toolbar" and follow me boundaries coincident, this would effectively render Strauss unsatisfactory for its intended purpose of providing the "Drag Toolbar" "so as always to be within a certain distance from the cursor." Either the "Drag Toolbar" would stay continually with the cursor once the cursor enters the "Drag Toolbar" rather than stay a specified distance from the cursor, or fail to follow the cursor at all if modified as asserted by the Examiner.

In light of the above discussion, Examiner has failed to establish a *prima facie* case of obviousness because nothing cited or found in Iwema and Strauss, as modified by the Examiner's assertion, taken alone and in combination teaches "having a menu with objects selectable by the first tracking symbol with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary."

Furthermore, nothing cited or found in Iwema teaches that "the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated." Iwema merely discusses in column 8, lines 11-35:

> To perform the desired action upon the object, an aspect of the present invention allows the user to initiate a context menu for the object. The context menu may present the user with all or a subset of all the possible actions applicable to the object. FIG. 3 shows a context menu according to one embodiment of the invention. The user has created an object having associated ink **302**, selected

the object by drawing outline **304** or otherwise selecting the object, and then initiated context menu **306**. The user may have initiated context menu **306** by performing a certain stylus gesture, by pressing a particular button on the stylus (e.g., a button analogous to a "right-click" with a mouse), or in some other manner known in the art. Notably, the invention does not require that the user first identify the object to be acted upon and then initiate context menu **306**. As one alternative, the user could first initiate context menu **306** and then be prompted to identify the object to be acted upon. As another alternative, the user may have previously activated context menu **306**, and then "pinned" it to the active document. In such an alternative embodiment, context menu **306** might remain at a corner of the display (or other unobtrusive location), and then be "dragged" over ink associated with the object to be acted upon. This embodiment is also shown in FIG. 5, with the menu **306 '** representing the menu prior to being moved to ink **302**.

In other words, a user can initiate a context menu, and it is presented on the display. Iwema further notes in column 11, lines 5-12 that "the menus could optionally be configured such that, whenever a user makes a menu choice that does not have an associated lower level menu, the menu having that choice disappears, but all higher level menus remain. For example, if the user chose "blue" in FIG. 6E, menu **546** might disappear, but menu **536** could remain so as to allow further choices from menu **536**." In other words, if a user makes a selection in a menu and that menu choice does not have an associated lower level menu, the menu disappears. The cited portions of Iwema have been cited by the Examiner in the Office Action mailed December 11, 2008 as teaching "the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated." However, Iwema merely notes that a user can initiate a context menu, and when a user makes a selection of a menu choice that does not have a lower level, the menu disappears.

In addition, claim 48 patentably distinguishes over Iwema and Strauss because nothing cited or found in Iwema and Strauss teaches "a computer readable storage controlling a computer with a first tracking symbol having a first tracking symbol position controllable by the user."

Thus independent claim 48 patentably distinguishes over Iwema and Strauss.

7. Independent Claim 28

Independent claim 28 is directed to an interface having a display. Further, claim 28 recites "a tracking menu positioned on the display, having an edge and having controls positioned in the menu with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary" and "a tracking symbol

positioned above the menu, encountering the edge of the boundary when moved and moving the menu when the edge is encountered."

Claim 28 emphasizes the features of "the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the controls is not activated and always not visible when one of the controls is activated" found in claims 1 and 54, for example, and emphasizes a further additionally distinguishing feature. In particular, claim 28 recites" a tracking symbol positioned above the menu, encountering the edge of the boundary when moved and moving the menu when the edge is encountered." In particular, Iwema and Strauss do not teach moving the menu when the edge is encountered because nothing cited or found teaches an edge.

Thus independent claim 28 patentably distinguishes over Iwema and Strauss.

8. Independent Claim 47

Independent claim 47 is directed to a computer readable storage controlling a computer. Further, claim 47 recites "allowing a user to move a tracking symbol on a computer display, and moving a tracking menu in correspondence to the symbol when the symbol encounters an edge of the menu, the menu containing selectable objects, with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated."

Claim 47 emphasizes the features of "the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated" found in claims 1 and 54, for example, and emphasizes a further additionally distinguishing feature.

In particular claim 47 recites "[a] computer readable storage controlling a computer by allowing a user to move a tracking symbol on a computer display, and moving a tracking menu in correspondence to the symbol when the symbol encounters an edge of the menu." Nothing cited or found in Iwema and Strauss teaches moving a tracking menu in corresponding to the symbol when the symbol encounters an edge of the menu."

Thus independent claim 47 patentably distinguishes over Iwema and Strauss.

9. Independent Claim 44

Independent claim 44 is directed to a method "moving a first tracking symbol responsive

to movement of a second tracking symbol." Further, claim 44 recites "the first tracking symbol having a menu containing selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary and moving the second tracking symbol responsive to an input transducer, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated."

The Office Action mailed December 11, 2008 noted on page 7-8 that claim 44 is rejected along a similar rationale as applied to claim 1. The Office Action further asserted that Strauss teaches the above claim limitations, and cited the drag toolbar 40, "follow me" zone 42 of Strauss as well as column 6, lines 59-67 of Strauss.

The Office Action mailed December 11, 2008 asserts that Strauss teaches the menu comprising a mobile tracking region having a region boundary coincident and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, but admits that Strauss does not expressly teach that the region boundary is coincident with the menu boundary, but that it would have been obvious to one of ordinary skill in the art at the time the invention was made because Strauss suggests to the skilled artisan that different designs can be applied to the drag toolbar such that the drag toolbar can be in different shapes with different controls. The Examiner alleges that the "drag toolbar" 40 and the "follow me" zone in Figure 7 of Strauss enclose the cursor 4, and cites column 6, lines 59-67 of Strauss.

Strauss notes that "[a]fter a drag operation begins, a "Drag Toolbar" appears with an icon or button controls that change the current function of the drag operation when the cursor is moved over a selected control." Further, "the Drag Toolbar may be floating and have a "follow me" characteristic, where the Drag Toolbar moves so as to always be within a certain distance from the cursor, for the convenience of close access." Strauss discusses that "[o]ne of the principal advantages of the invention is that it provides an unambiguous way for a user to change the drag functionality of a cursor during a drag operation. Thus, a user need not memorize different keyboard modifier combinations, as in the prior art. Further, the graphical user interface is not cluttered, since the Drag Toolbar only appears when a drag operation is initiated." (See Strauss, column 2, lines 20-23, 44-48, 49-55).

Column 6, lines 59-67 of Strauss specifically discusses that "shown in Fig. 7, a Drag Toolbar 40 is initially displayed in reasonably close proximity to the cursor, but has a "follow me" zone 42 which defines the bounds of a region around the Drag Toolbar 40. If the cursor is within

the bounds of the "follow me" zone, the Drag Toolbar 40 does not move. However, if the cursor 4 attempts to move past the 'follow me' zone boundary, the Drag Toolbar 40 follows the cursor across the user's display." The video and demonstration discussed above clearly show that Strauss cannot be modified as asserted by the Office Action.

If Strauss were to modified as asserted by the Examiner to make the "follow me" boundary and "Drag Toolbar" boundaries coincident, if a user of Strauss were to start a drag event, and desire to change functionality by moving into the "Drag Toolbar" which would also be the "Follow Me" area during the drag, as the user tried to leave the "Drag Toolbar" after changing functionality, the "Drag Toolbar" would continue to follow the user's cursor and the user would then be trapped in the "Drag Toolbar" and not be able to leave the "Drag Toolbar" area. The user could also likely make unintended selections of other functions in the Drag Toolbar because the "Follow Me" zone boundary and "Drag Toolbar" area would be made coincident. Additionally, if the user does not move inside the coincident "Drag Toolbar" & "follow me" boundaries, as the user moves away from the "Drag Toolbar," the Drag Toolbar would not be able to follow the user's cursor across the display and would simply stay stationary.

This is why Strauss specifically teaches that the Drag Toolbar has a separate "follow me" zone 42 which is different from the boundary of the "Drag Toolbar."

Thus, "follow me" zone boundary of Strauss must be a particular distance away from the "Drag Toolbar" and cursor as shown in Figure 7. Such a modification to Strauss as suggested by the Examiner would actually make the Drag Toolbar less efficient to use, rather than more efficient, and inoperable for its intended function. Thus one of ordinary skill in the art at the time of the invention would not have been motivated to make such a change to Strauss, and such a change certainly would not be obvious.

Additionally, the Examiner, on page 24 of the Office Action mailed December 11, 2008 has asserted that "it would have been obvious to a person of ordinary skill in the art **to try** to match the region boundary with the menu boundary in an attempt to provide an end user with a visual cue as to what the tracking boundary is, [so] that the end user can use the menu more efficiently." However, if one did try to make both the follow me and drag toolbar boundaries, concident, one would realize that this would make Strauss's Drag Toolbar unusable as discussed above. Although the Supreme Court has recently indicated that an "obvious to try" rationale is permissible in an obviousness rejection, this is an improper "obvious to try" rationale, as such a "try" clearly would make Strauss's Drag Toolbar nearly impossible to use. (See MPEP, 2145 and *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 421, 82 USPQ2d 1385, 1397 (2007)).

Thus, even if one of ordinary skill were to try such a modification, the modification would not be successful.

As noted in MPEP 2143.01,"if proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). As discussed above, by making the "Drag Toolbar" and follow me boundaries coincident, this would effectively render Strauss unsatisfactory for its intended purpose of providing the "Drag Toolbar" "so as always to be within a certain distance from the cursor." Either the "Drag Toolbar" would stay continually with the cursor once the cursor enters the "Drag Toolbar" rather than stay a specified distance from the cursor, or fail to follow the cursor at all if modified as asserted by the Examiner.

In light of the above discussion, Examiner has failed to establish a *prima facie* case of obviousness because nothing cited or found in Iwema and Strauss, as modified by the Examiner's assertion, taken alone and in combination teaches "the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary and moving the second tracking symbol responsive to an input transducer."

Furthermore, nothing cited or found in Iwema teaches "the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated." Iwema merely discusses in column 8, lines 11-35:

> To perform the desired action upon the object, an aspect of the present invention allows the user to initiate a context menu for the object. The context menu may present the user with all or a subset of all the possible actions applicable to the object. FIG. 3 shows a context menu according to one embodiment of the invention. The user has created an object having associated ink **302** , selected the object by drawing outline **304** or otherwise selecting the object, and then initiated context menu **306** . The user may have initiated context menu **306** by performing a certain stylus gesture, by pressing a particular button on the stylus (e.g., a button analogous to a "right-click" with a mouse), or in some other manner known in the art. Notably, the invention does not require that the user first identify the object to be acted upon and then initiate context menu **306** . As one alternative, the user could first initiate context menu **306** and then be prompted to identify the object to be acted upon. As another alternative, the user may have previously activated context menu **306** , and then "pinned" it to the active document. In such an alternative embodiment, context menu **306** might remain at a corner of the display (or other unobtrusive location), and then be "dragged" over ink associated with the object to be acted upon. This embodiment is also shown in FIG. 5, with the menu **306** '

representing the menu prior to being moved to ink **302**.

In other words, a user can initiate a context menu, and it is presented on the display. Iwema further notes in column 11, lines 5-12 that "the menus could optionally be configured such that, whenever a user makes a menu choice that does not have an associated lower level menu, the menu having that choice disappears, but all higher level menus remain. For example, if the user chose "blue" in FIG. 6E, menu **546** might disappear, but menu **536** could remain so as to allow further choices from menu **536**." In other words, if a user makes a selection in a menu and that menu choice does not have an associated lower level menu, the menu disappears. The cited portions of Iwema have been cited by the Examiner in the Office Action mailed December 11, 2008 as teaching "the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated." However, Iwema merely notes that a user can initiate a context menu, and when a user makes a selection of a menu choice that does not have a lower level, the menu disappears.

In addition, nothing cited or found in Iwema and Strauss discusses "moving a first tracking symbol responsive to movement a second tracking symbol" which further distinguishes claim 44 over Iwema and Strauss.

Thus independent claim 44 patentably distinguishes over Iwema and Strauss.

10. Independent Claim 45

Independent claim 45 is directed to a method "using a single cursor movement to both move and activate a mobile control." Further, claim 45 recites "the mobile control having a menu containing selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the selectable objects is not selected and always not visible when one of the selectable objects is selected."

The Office Action mailed December 11, 2008 noted on page 8 that claim 45 is rejected along a similar rationale as applied to claim 1. The Office Action further asserted that Strauss teaches the above claim limitations, and cited the drag toolbar 40, "follow me" zone 42 of Strauss as well as column 6, lines 59-67 of Strauss.

The Office Action mailed December 11, 2008 asserts that Strauss teaches the menu comprising a mobile tracking region having a region boundary coincident and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary

while moving, but admits that Strauss does not expressly teach that the region boundary is coincident with the menu boundary, but that it would have been obvious to one of ordinary skill in the art at the time the invention was made because Strauss suggests to the skilled artisan that different designs can be applied to the drag toolbar such that the drag toolbar can be in different shapes with different controls. The Examiner alleges that the "drag toolbar" 40 and the "follow me" zone in Figure 7 of Strauss enclose the cursor 4, and cites column 6, lines 59-67 of Strauss.

Strauss notes that "[a]fter a drag operation begins, a "Drag Toolbar" appears with an icon or button controls that change the current function of the drag operation when the cursor is moved over a selected control." Further, "the Drag Toolbar may be floating and have a "follow me" characteristic, where the Drag Toolbar moves so as to always be within a certain distance from the cursor, for the convenience of close access." Strauss discusses that "[o]ne of the principal advantages of the invention is that it provides an unambiguous way for a user to change the drag functionality of a cursor during a drag operation. Thus, a user need not memorize different keyboard modifier combinations, as in the prior art. Further, the graphical user interface is not cluttered, since the Drag Toolbar only appears when a drag operation is initiated." (See Strauss, column 2, lines 20-23, 44-48, 49-55).

Column 6, lines 59-67 of Strauss specifically discusses that "shown in Fig. 7, a Drag Toolbar 40 is initially displayed in reasonably close proximity to the cursor, but has a "follow me" zone 42 which defines the bounds of a region around the Drag Toolbar 40. If the cursor is within the bounds of the "follow me" zone, the Drag Toolbar 40 does not move. However, if the cursor 4 attempts to move past the 'follow me' zone boundary, the Drag Toolbar 40 follows the cursor across the user's display." The video and demonstration discussed above clearly show that Strauss cannot be modified as asserted by the Office Action.

If Strauss were to be modified as asserted by the Examiner to make the "follow me" boundary and "Drag Toolbar" boundaries coincident, if a user of Strauss were to start a drag event, and desire to change functionality by moving into the "Drag Toolbar" which would also be the "Follow Me" area during the drag, as the user tried to leave the "Drag Toolbar" after changing functionality, the "Drag Toolbar" would continue to follow the user's cursor and the user would then be trapped in the "Drag Toolbar" and not be able to leave the "Drag Toolbar" area. The user could also likely make unintended selections of other functions in the Drag Toolbar because the "Follow Me" zone boundary and "Drag Toolbar" area would be made coincident. Additionally, if the user does not move inside the coincident "Drag Toolbar" & "follow me" boundaries, as the user moves away from the "Drag Toolbar," the Drag Toolbar would not be able to follow the

user's cursor across the display and would simply stay stationary.

This is why Strauss specifically teaches that the Drag Toolbar has a separate "follow me" zone 42 which is different from the boundary of the "Drag Toolbar."

Thus, "follow me" zone boundary of Strauss must be a particular distance away from the "Drag Toolbar" and cursor as shown in Figure 7. Such a modification to Strauss as suggested by the Examiner would actually make the Drag Toolbar less efficient to use, rather than more efficient, and inoperable for its intended function. Thus one of ordinary skill in the art at the time of the invention would not have been motivated to make such a change to Strauss, and such a change certainly would not be obvious.

Additionally, the Examiner, on page 24 of the Office Action mailed December 11, 2008 has asserted that "it would have been obvious to a person of ordinary skill in the art **to try** to match the region boundary with the menu boundary in an attempt to provide an end user with a visual cue as to what the tracking boundary is, [so] that the end user can use the menu more efficiently." However, if one did try to make both the follow me and drag toolbar boundaries coincident, one would realize that this would make Strauss's Drag Toolbar unusable as discussed above. Although the Supreme Court has recently indicated that an "obvious to try" rationale is permissible in an obviousness rejection, this is an improper "obvious to try" rationale, as such a "try" clearly would make Strauss's Drag Toolbar nearly impossible to use. (See MPEP, 2145 and *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 421, 82 USPQ2d 1385, 1397 (2007)). Thus, even if one of ordinary skill were to try such a modification, the modification would not be successful.

As noted in MPEP 2143.01,"if proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). As discussed above, by making the "Drag Toolbar" and follow me boundaries coincident, this would effectively render Strauss unsatisfactory for its intended purpose of providing the "Drag Toolbar" "so as always to be within a certain distance from the cursor." Either the "Drag Toolbar" would stay continually with the cursor once the cursor enters the "Drag Toolbar" rather than stay a specified distance from the cursor, or fail to follow the cursor at all if modified as asserted by the Examiner.

In light of the above discussion, Examiner has failed to establish a *prima facie* case of obviousness because nothing cited or found in Iwema and Strauss, as modified by the Examiner's assertion, taken alone and in combination teaches "the mobile control having a

menu containing selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary."

Furthermore, nothing cited or found in Iwema teaches "the menu is always visible when one of the selectable objects is not selected and always not visible when one of the selectable objects is selected." Iwema merely discusses in column 8, lines 11-35:

> To perform the desired action upon the object, an aspect of the present invention allows the user to initiate a context menu for the object. The context menu may present the user with all or a subset of all the possible actions applicable to the object. FIG. 3 shows a context menu according to one embodiment of the invention. The user has created an object having associated ink **302** , selected the object by drawing outline **304** or otherwise selecting the object, and then initiated context menu **306** . The user may have initiated context menu **306** by performing a certain stylus gesture, by pressing a particular button on the stylus (e.g., a button analogous to a "right-click" with a mouse), or in some other manner known in the art. Notably, the invention does not require that the user first identify the object to be acted upon and then initiate context menu **306** . As one alternative, the user could first initiate context menu **306** and then be prompted to identify the object to be acted upon. As another alternative, the user may have previously activated context menu **306** , and then "pinned" it to the active document. In such an alternative embodiment, context menu **306** might remain at a corner of the display (or other unobtrusive location), and then be "dragged" over ink associated with the object to be acted upon. This embodiment is also shown in FIG. 5, with the menu **306** ' representing the menu prior to being moved to ink **302** .

In other words, a user can initiate a context menu, and it is presented on the display. Iwema further notes in column 11, lines 5-12 that "the menus could optionally be configured such that, whenever a user makes a menu choice that does not have an associated lower level menu, the menu having that choice disappears, but all higher level menus remain. For example, if the user chose "blue" in FIG. 6E, menu **546** might disappear, but menu **536** could remain so as to allow further choices from menu **536**.**" In other words, if a user makes a selection in a menu and that menu choice does not have an associated lower level menu, the menu disappears. The cited portions of Iwema have been cited by the Examiner in the Office Action mailed December 11, 2008 as teaching "the menu is always visible when one of the selectable objects is not selected and always not visible when one of the selectable objects is selected." However, Iwema merely notes that a user can initiate a context menu, and when a user makes a selection of a menu choice that does not have a lower level, the menu disappears.

In addition, claim 45 further patentably distinguishes over Iwema and Strauss because

nothing cited or found discusses single cursor movement to both move and activate a mobile control. Strauss, in fact, discusses several different cursors which change to suggest the user operation that will result from dropping and object. (See for example, Strauss, column 6, lines 29-46).

Thus independent claim 45 patentably distinguishes over Iwema and Strauss.

11. Independent Claim 49

Independent claim 49 is directed to a graphical user interface display having "a display area that tracks a cursor tool when the cursor tool reaches a boundary of the area and that has a display function." Further, claim 49 recites "the cursor tool movable within the area and that drags the area around when the boundary is reached and being activated by an input event, the area having a menu containing selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated."

Claim 49 emphasizes the features of "the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated" found in claims 1 and 54, for example, and emphasizes a further additionally distinguishing feature.

In particular, claim 49 patentably distinguishes over Iwema and Strauss, taken alone and in combination, because nothing cited or found teaches "a display area that tracks a cursor tool when the cursor tool reaches a boundary of the area." Strauss discusses a number of cursors but does not teach a cursor tool and tracking when the cursor tool reaches a boundary of the area.

Thus independent claim 49 patentably distinguishes over Iwema and Strauss.

12. Independent Claim 32

Independent claim 32 is directed to a method "allowing a user to move a tracking symbol on a display." Further, claim 32 recites "moving a tracking menu having controls in correspondence to the symbol when the symbol encounters an edge of the menu with the menu always being visible when one of the controls is not activated and always being not visible when one of the controls is activated."

Claim 32 emphasizes the features of "the menu always being visible when one of the

controls is not activated and always being not visible when one of the controls is activated" found in claims 1 and 54, for example, and emphasizes a further additionally distinguishing feature.

The Office Action mailed December 11, 2008 noted on page 9 that claim 32 is rejected along a similar rationale as applied to claim 1. The Office Action further asserted that Strauss teaches the above claim limitations, and cited the drag toolbar 40, "follow me" zone 42 of Strauss as well as column 6, lines 59-67 of Strauss. However, claim 32 recites differently from claim 1.

In particular, claim 32 patentably distinguishes over Iwema and Strauss, taken alone and in combination, because nothing cited or found teaches "a tracking menu having controls in correspondence to the symbol when the symbol encounters an edge of the menu." In other words, Strauss and Iwema do not teach a tracking menu which has controls which are in correspondence to the symbol when the symbol encounters an edge of the menu. The controls are displayed in correspondence when the symbol is at the edge of the menu. This edge of the menu is unrelated to the follow me zone taught by Strauss.

The Office Action mailed December 11, 2008 asserts that claim 32 is rejected along a same rationale as applied to claim 1, but as discussed above, claim 32 recites differently from claim 1. The Office Action asserts that Strauss teaches the features of claim 32, and refers to Figure 7, cursor 4, and the follow me zone boundary discussed above. The Office Action asserts that an edge of the menu is the same as the "follow me" zone boundary, but the "follow me" zone boundary is not an edge.

In light of the above discussion, Examiner has failed to establish a *prima facie* case of obviousness because nothing cited or found in Iwema and Strauss, as modified by the Examiner's assertion, taken alone and in combination teaches "moving a tracking menu having controls in correspondence to the symbol when the symbol encounters an edge of the menu with the menu."

Thus independent claim 32 patentably distinguishes over Iwema and Strauss.

13. Independent Claim 50

Independent claim 50 is directed to a graphical user interface display having a tracking symbol positioned corresponding to an input transducer movable by a user. Further, claim 50 recites "a mobile tracking region, on the display, having a region boundary enclosing the tracking symbol with the tracking symbol being movable within the boundary when not dragging, the region moving in correspondence to the tracking symbol when the tracking symbol encounters

the boundary while moving, the region having controls activatable when the tracking symbol corresponds to the controls, and the mobile tracking region is always visible when one of the controls is not activated and always not visible when one of the controls is activated."

The Office Action mailed December 11, 2008 noted on pages 9-10 that claim 50 is rejected along a similar rationale as applied to claim 1. The Office Action further asserted that Strauss teaches the above claim limitations, and cited the drag toolbar 40, "follow me" zone 42 of Strauss as well as column 6, lines 59-67 of Strauss. The Office Action also cited column 6, lines 50-58 and asserted that the user can change functionality of the cursor.

Strauss does not teach "a mobile tracking region, on the display, having a region boundary enclosing the tracking symbol with the tracking symbol being movable within the boundary when not dragging." The Office Action on page 10 asserts that the above claim limitation is to be interpreted as when the region is not moving with the cursor. However, this is a misinterpretation. Rather, as shown in the video, when the tracking symbol of claim 50 moves when the mouse is not depressed, i.e., not dragging, the tracking symbol is movable within the boundary. Strauss merely teaches that the Drag Toolbar and follow me boundary, either coincident as modified by hindsight, or otherwise, do not even display unless there is dragging. Thus, Strauss actually teaches the opposite, a cursor movable within the follow me boundary while dragging. Iwema does not cure the deficiencies of Strauss because Iwema does not discuss "the tracking symbol being movable within the boundary when not dragging." Thus, Strauss in combination with Iwema cannot teach this feature.

In light of the above discussion, Examiner has failed to establish a *prima facie* case of obviousness because nothing cited or found in Iwema and Strauss, as modified by the Examiner's assertion, taken alone and in combination teaches "a mobile tracking region, on the display, having a region boundary enclosing the tracking symbol with the tracking symbol being movable within the boundary when not dragging, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving."

Claim 50 also emphasizes the distinguishing features of "the mobile tracking region is always visible when one of the controls is not activated and always not visible when one of the controls is activated" found in claims 1 and 54, for example.

Thus independent claim 50 patentably distinguishes over Iwema and Strauss.

14. Independent Claim 51

Independent claim 51 is directed to a graphical user interface display having a tracking

symbol positioned corresponding to an input transducer movable by a user. Further, independent claim 51 recites "a mobile tracking region, on the display, having a region boundary enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, the region having controls activatable when the tracking symbol corresponds to the controls, the controls for selecting commands, and the mobile tracking region is always visible when one of the controls is not activated and always not visible when one of the controls is activated."

First, Strauss in combination with Iwema does not teach "the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving." Rather, Strauss requires that a user be dragging before the Drag Toolbar is displayed and the Follow Me zone boundary is operable. Thus, Strauss cannot teach "the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving" because Strauss requires also requires a drag operation to begin before the Drag Toolbar even displays.

The Office Action mailed December 11, 2008 noted on pages 10-11 that claim 51 is rejected along a similar rationale as applied to claim 1. The Office Action further asserted that Strauss teaches the above claim limitations, and cited the drag toolbar 40, "follow me" zone 42 of Strauss as well as column 6, lines 59-67 of Strauss. The Office Action also cited column 6, lines 50-58 and asserted that the user can change functionality of the cursor. As discussed below, this change of the functionality will make Strauss unsatisfactory for its intended purpose if Strauss is modified as the Examiner suggests is obvious.

The Office Action mailed December 11, 2008 asserts that Strauss teaches the menu comprising a mobile tracking region having a region boundary and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, but admits that Strauss does not expressly teach that the region boundary is coincident with the menu boundary, but that it would have been obvious to one of ordinary skill in the art at the time the invention was made because Strauss suggests to the skilled artisan that different designs can be applied to the drag toolbar such that the drag toolbar can be in different shapes with different controls. The Examiner alleges that the "drag toolbar" 40 and the "follow me" zone in Figure 7 of Strauss enclose the cursor 4, and cites column 6, lines 59-67 of Strauss.

Strauss notes that "[a]fter a drag operation begins, a "Drag Toolbar" appears with an icon

or button controls that change the current function of the drag operation when the cursor is moved over a selected control." Further, "the Drag Toolbar may be floating and have a "follow me" characteristic, where the Drag Toolbar moves so as to always be within a certain distance from the cursor, for the convenience of close access." Strauss discusses that "[o]ne of the principal advantages of the invention is that it provides an unambiguous way for a user to change the drag functionality of a cursor during a drag operation. Thus, a user need not memorize different keyboard modifier combinations, as in the prior art. Further, the graphical user interface is not cluttered, since the Drag Toolbar only appears when a drag operation is initiated." (See Strauss, column 2, lines 20-23, 44-48, 49-55).

Column 6, lines 59-67 of Strauss specifically discuss that "shown in Fig. 7, a Drag Toolbar 40 is initially displayed in reasonably close proximity to the cursor, but has a "follow me" zone 42 which the defines the bounds of a region around the Drag Toolbar 40. If the cursor is within the bounds of the "follow me" zone, the Drag Toolbar 40 does not move. However, if the cursor 4 attempts to move past the 'follow me' zone boundary, the Drag Toolbar 40 follows the cursor across the user's display." As discussed above with respect to the video and demonstration, Strauss cannot be modified as asserted by the Office Action.

If Strauss were to modified as asserted by the Examiner to make the "follow me" boundary and "Drag Toolbar" boundaries coincident, if a user of Strauss were to start a drag event, and desire to change functionality by moving into the "Drag Toolbar" which would also be the "Follow Me" area during the drag, as the user tried to leave the "Drag Toolbar" after changing functionality, the "Drag Toolbar" would continue to follow the user's cursor and the user would then be trapped in the "Drag Toolbar" and not be able to leave the "Drag Toolbar" area. The user could also likely make unintended selections of other functions in the Drag Toolbar because the "Follow Me" zone boundary and "Drag Toolbar" area would be made coincident. Additionally, if the user does not move inside the coincident "Drag Toolbar" & "follow me" boundaries, as the user moves away from the "Drag Toolbar," the Drag Toolbar would not be able to follow the user's cursor across the display and would simply stay stationary.

This is why Strauss specifically teaches that the Drag Toolbar has a separate "follow me" zone 42 which is different from the boundary of the "Drag Toolbar."

Thus, "follow me" zone boundary of Strauss must be a particular distance away from the "Drag Toolbar" and cursor as shown in Figure 7. Such a modification to Strauss as suggested by the Examiner would actually make the Drag Toolbar less efficient to use, rather than more efficient, and inoperable for its intended function. Thus one of ordinary skill in the art at the time

of the invention would not have been motivated to make such a change to Strauss, and such a change certainly would not be obvious.

Additionally, the Examiner, on page 24 of the Office Action mailed December 11, 2008 has asserted that "it would have been obvious to a person of ordinary skill in the art **to try** to match the region boundary with the menu boundary in an attempt to provide an end user with a visual cue as to what the tracking boundary is, [so] that the end user can use the menu more efficiently." However, if one did try to make both the follow me and drag toolbar boundaries coincident, one would realize that this would make Strauss's Drag Toolbar unusable as discussed above. Although the Supreme Court has recently indicated that an "obvious to try" rationale is permissible in an obviousness rejection, this is an improper "obvious to try" rationale, as such a "try" clearly would make Strauss's Drag Toolbar nearly impossible to use. (See MPEP, 2145 and *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 421, 82 USPQ2d 1385, 1397 (2007)). Thus, even if one of ordinary skill were to try such a modification, the modification would not be successful.

As noted in MPEP 2143.01,"if proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). As discussed above, by making the "Drag Toolbar" and follow me boundaries coincident, this would effectively render Strauss unsatisfactory for its intended purpose of providing the "Drag Toolbar" "so as always to be within a certain distance from the cursor." Either the "Drag Toolbar" would stay continually with the cursor once the cursor enters the "Drag Toolbar" rather than stay a specified distance from the cursor, or fail to follow the cursor at all if modified as asserted by the Examiner.

In light of the above discussion, Examiner has failed to establish a *prima facie* case of obviousness because nothing cited or found in Iwema and Strauss, as modified by the Examiner's assertion, taken alone and in combination teaches "a mobile tracking region, on the display, having a region boundary enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, the region having controls activatable when the tracking symbol corresponds to the controls, the controls for selecting commands."

Furthermore, nothing cited or found in Iwema teaches "the mobile tracking region is always visible when one of the controls is not activated and always not visible when one of the

controls is activated." Iwema merely discusses in column 8, lines 11-35:

> To perform the desired action upon the object, an aspect of the
> present invention allows the user to initiate a context menu for the
> object. The context menu may present the user with all or a subset
> of all the possible actions applicable to the object. FIG. 3 shows a
> context menu according to one embodiment of the invention. The
> user has created an object having associated ink **302** , selected
> the object by drawing outline **304** or otherwise selecting the object,
> and then initiated context menu **306** . The user may have initiated
> context menu **306** by performing a certain stylus gesture, by
> pressing a particular button on the stylus (e.g., a button analogous
> to a "right-click" with a mouse), or in some other manner known in
> the art. Notably, the invention does not require that the user first
> identify the object to be acted upon and then initiate context menu
> **306** . As one alternative, the user could first initiate context menu
> **306** and then be prompted to identify the object to be acted upon.
> As another alternative, the user may have previously activated
> context menu **306** , and then "pinned" it to the active document. In
> such an alternative embodiment, context menu **306** might remain
> at a corner of the display (or other unobtrusive location), and then
> be "dragged" over ink associated with the object to be acted upon.
> This embodiment is also shown in FIG. 5, with the menu **306** ′
> representing the menu prior to being moved to ink **302** .

In other words, a user can initiate a context menu, and it is presented on the display.
Iwema further notes in column 11, lines 5-12 that "the menus could optionally be configured such
that, whenever a user makes a menu choice that does not have an associated lower level menu,
the menu having that choice disappears, but all higher level menus remain. For example, if the
user chose "blue" in FIG. 6E, menu **546** might disappear, but menu **536** could remain so as to
allow further choices from menu **536.**" In other words, if a user makes a selection in a menu
and that menu choice does not have an associated lower level menu, the menu disappears.
The cited portions of Iwema have been cited by the Examiner in the Office Action mailed
December 11, 2008 as teaching "the mobile tracking region is always visible when one of the
controls is not activated and always not visible when one of the controls is activated." However,
Iwema merely notes that a user can initiate a context menu, and when a user makes a selection
of a menu choice that does not have a lower level, the menu disappears.

Thus independent claim 51 patentably distinguishes over Iwema and Strauss.

15. Independent Claim 52

Independent claim 52 is directed to a graphical user interface display including a tracking
symbol positioned corresponding to an input transducer movable by a user. Further, claim 52
recites "a menu, on the display, having an edge enclosing the tracking symbol with the tracking

symbol being movable within the edge, the menu moving in correspondence to the tracking symbol when the tracking symbol encounters the edge while moving, and the region having controls activatable when the tracking symbol corresponds to the controls, and the menu is always visible when one of the controls is not activated and always not visible when one of the controls is activated."

Claim 52 emphasizes the features of "the menu moving in correspondence to the tracking symbol when the tracking symbol encounters the edge while moving, and the region having controls activatable when the tracking symbol corresponds to the controls, and the menu is always visible when one of the controls is not activated and always not visible when one of the controls is activated" found in claims 1 and 54, for example, and emphasizes a further additionally distinguishing feature.

In particular, claim 52 recites "a menu, on the display, having an edge enclosing the tracking symbol with the tracking symbol being movable within the edge." Nothing cited or found in Iwema and Strauss, taken alone and in combination, teaches a menu having an edge enclosing the tracking symbol and the tracking symbol being movable within the edge. The follow me boundary of Strauss modified or unmodified by the hindsight comments of the Office Action is not an "edge." In fact, the follow me boundary of Strauss is not visible in Figure 7.

Thus independent claim 52 patentably distinguishes over Iwema and Strauss.

16. Dependent Claim 2

Dependent claim 2 is at least patentable due to its dependency from independent claim 1. Further, although the Office Action on page 12 asserts that claim 2 is taught by the "follow me" zone 42, the discussion of the follow-me zone in Strauss which is invisible does not teach a visible menu edge. The dotted line of the Strauss follow-me zone is not to be visible.

Therefore, claim 2 is patentable over Iwema and Strauss.

17. Dependent Claim 3

Dependent claim 3 is at least patentable due to its dependency from independent claim 1. However, the Drag Toolbar in Figure 1B is related to a drag operation and has buttons for copy and paste and move, and is unrelated to "the region comprises one of a linear menu, a menu with an embedded marking menu, a tool palette, a color palette, a pan-zoom tool, a pen-mouse, a keyboard, a numeric pad, one or more buttons, sliders, checkboxes, pull-down menu, a dialog box, and an alternative view."

Therefore, claim 3 is patentable over Iwema and Strauss.

18. Dependent Claim 4

Dependent claim 4 is at least patentable due to its dependency from independent claim 1. In addition, claim 4 additionally distinguishes over Iwema and Strauss because nothing cited or found teaches "the controls of the interface further comprise a control changed in appearance when the tracking symbol is over the control and is active." In particular, Iwema and Strauss do not teach a control changed in appearance when the tracking symbol is over the control and is active. Strauss merely notes that during a drag operation, the cursor can be changed to suggest the type of operation, but does not teach a control changed in appearance when the tracking symbol is over the control.

Therefore, claim 4 is patentable over Iwema and Strauss.

19. Dependent Claim 6

Dependent claim 6 is at least patentable due to its dependency from independent claim 1.

Therefore, claim 6 is patentable over Iwema and Strauss.

20. Dependent Claim 7

Dependent claim 7 is at least patentable due to its dependency from independent claim 1.

Therefore, claim 7 is patentable over Iwema and Strauss.

21. Dependent Claim 10

Dependent claim 10 is at least patentable due to its dependency from independent claim 1.

Therefore, claim 10 is patentable over Iwema and Strauss.

22. Dependent Claim 11

Dependent claim 11 is at least patentable due to its dependency from independent claim 1.

Therefore, claim 11 is patentable over Iwema and Strauss.

23. Dependent Claim 14

Dependent claim 14 is at least patentable due to its dependency from independent claim 1.

Therefore, claim 14 is patentable over Iwema and Strauss.

24. Dependent Claim 15

Dependent claim 15 is at least patentable due to its dependency from independent claim 1.

Furthermore, Strauss and Iwema do not teach wherein the symbol is allowed to cross the boundary while moving." If Strauss's "follow me" boundary is modified as asserted by the Examiner to be coincident with the drag toolbar, then the symbol would never be allowed to cross the boundary while moving as discussed above. Thus the Office Action's rejection of claim 15 contradicts its rejection of the independent claims. Claim 15 clearly shows that the boundary is inapplicable when the symbol of claim 1 is moving, opposite of Strauss.

Therefore, claim 15 is patentable over Iwema and Strauss.

25. Dependent Claim 20

Dependent claim 20 is at least patentable due to its dependency from independent claim 1.

Furthermore, Iwema and Strauss do not teach or suggest an interior tracking boundary interior to the region boundary and the region moving in correspondence to the tracking symbol when the tracking symbol encounters the interior tracking boundary. As discussed above, the follow me boundary cannot be made to be coincident with the Drag Toolbar boundary. Although the Office Action mailed December 11, 2008 on page 14 asserts that column 6, lines 59-67 teach an interior tracking boundary interior to the region boundary and the region moving in correspondence to the tracking symbol when the tracking symbol encounters the interior tracking boundary, not only do Iwema and Strauss not teach the region boundary, but they do not teach an interior tracking boundary which is interior to the region boundary. The Office Action asserts that the follow me zone is defined as the boundary of a region around the drag toolbar 40. Thus, the follow me zone is not taught to be interior to the drag toolbar, but rather the boundary of a region around the drag toolbar. Thus, the follow me zone is not taught to be interior to the drag toolbar, and as discussed above, cannot be coincident to the boundary of the drag toolbar.

Therefore, claim 20 is patentable over Iwema and Strauss.

26. Dependent Claim 21

Dependent claim 21 is at least patentable due to its dependency from independent claim 1.

Furthermore, Iwema and Strauss, taken alone and in combination, do not teach an internal tracking boundary, let alone a jutting wall. The Office Action cited 42 of Figure 7 of Strauss, which is the "follow me" boundary. 42 is not an internal tracking boundary and nothing teaches "a jutting wall."

Therefore, claim 21 is patentable over Iwema and Strauss.

27. Dependent Claim 22

Dependent claim 22 is at least patentable due to its dependency from independent claim 1.

Therefore, claim 22 is patentable over Iwema and Strauss.

28. Dependent Claim 23

Dependent claim 23 is at least patentable due to its dependency from independent claim 1. Claim 23 further distinguishes over Strauss and Iwema. The Office Action cites column 3, lines 40-45 of Strauss as teaching "control activation requires a dwell." However, the Office Action has asserted that depressing a mouse button is a dwell. However, merely depressing a mouse button is not a dwell.

Therefore, claim 23 is patentable over Iwema and Strauss.

29. Dependent Claim 24

Dependent claim 24 is at least patentable due to its dependency from independent claim 1.

Therefore, claim 24 is patentable over Iwema and Strauss.

30. Dependent Claim 26

Dependent claim 26 is at least patentable due to its dependency from independent claim 25.

Therefore, claim 25 is patentable over Iwema and Strauss.

31. Dependent Claim 27

Dependent claim 27 is at least patentable due to its dependency from independent claim 25.

Therefore, claim 27 is patentable over Iwema and Strauss.

32. Dependent Claim 33

Dependent claim 33 is at least patentable due to its dependency from independent claim 32.

Furthermore, Iwema and Strauss do not teach "allowing a user to select an item in the tracking menu without moving the tracking menu" because as discussed above, making the follow me and drag toolbar boundaries coincident will make selection of items nearly impossible to do without moving the drag toolbar as the drag toolbar constantly tracks the cursor once the cursor enters the drag toolbar.

Therefore, claim 33 is patentable over Iwema and Strauss.

33. Dependent Claim 8

Dependent claim 8 is at least patentable due to its dependency from independent claim 1.

Therefore, claim 8 is patentable over Iwema and Strauss.

34. Dependent Claim 9

Dependent claim 9 is at least patentable due to its dependency from independent claim 1.

Therefore, claim 9 is patentable over Iwema and Strauss.

35. Dependent Claim 13

Dependent claim 13 is at least patentable due to its dependency from independent claim 1.

Furthermore, Iwema does not teach "the predetermined condition is a stylus out-of-range condition." Iwema merely discusses in column 7, lines 11-15 that hovering a stylus over the screen can be detected, but is silent regarding "a stylus out-of range condition." Hovering is detected and thus related to the stylus being in range.

Therefore, claim 13 is patentable over Iwema and Strauss.

36. Dependent Claim 34

Dependent claim 34 is at least patentable due to its dependency from independent claim 32. In addition, claim 34 further recites distinguishing features because Strauss cannot teach "moving of the tracking menu occurs when the stylus is in tracking range of the tablet." Strauss only displays the Drag Toolbar when a drag operation is occurring. Thus Strauss requires more than simply the stylus being in tracking range of the tablet. Strauss also requires a dragging

operation. Thus Strauss and Iwema, taken alone and in combination do not teach the features of claim 34.

Therefore, claim 34 is patentable over Iwema and Strauss.

37. Dependent Claim 37

Dependent claim 37 is at least patentable due to its dependency from independent claim 32.

Therefore, claim 37 is patentable over Iwema and Strauss.

38. Dependent Claim 38

Dependent claim 38 is at least patentable due to its dependency from independent claim 32.

Therefore, claim 38 is patentable over Iwema and Strauss.

C. Rejection of Claim 35 and 36 under 35 U.S.C. § 103(a) over Iwema, Strauss, and Beaton

1. Dependent Claim 35

Dependent claim 35 is at least patentable due to its dependency from independent claim 32.

Furthermore, Iwema, Strauss, and Beaton do not teach "making the tracking menu transparent when the stylus touches the tablet." As discussed in Strauss, the drag toolbar is made visible when active, opposite of claim 35. Beaton discusses that an activated navigation control is made transparent by touching and holding the center of the navigation tool. Thus, Beaton and Strauss are in opposition with one another.

Therefore, claim 35 is patentable over Iwema, Strauss, and Beaton.

2. Dependent Claim 36

Dependent claim 36 is at least patentable due to its dependency from independent claim 32.

Therefore, claim 36 is patentable over Iwema, Strauss, and Beaton.

D. Rejection of Claim 5 under 35 U.S.C. § 103(a) over Iwema, Strauss, Beaton, and Schirmer

1. Dependent Claim 5

Dependent claim 5 is at least patentable due to its dependency from independent claim 1.

Furthermore, the Office Action's combination of Schirmer with Strauss, Iwema, and Beaton does not teach "the region is semi-transparent when the tracking symbol is inactive and transparent when the tracking symbol is active." As discussed by Strauss, the tracking symbol of Strauss is active when dragging, and otherwise inactive. This is opposite of the present Application. Thus combining Schirmer with Strauss would make the region semi-transparent and transparent at the opposite times. Strauss notes that the drag toolbar is only visible when active, rather than "transparent when the tracking symbol is active" as recited in claim 5. Thus combining Schirmer with Strauss does not teach claim 5.

Therefore, claim 5 is patentable over Iwema, Strauss, Beaton, and Schirmer.

E. Rejection of Claims 16 and 40 under 35 U.S.C. § 103(a) over Iwema, Strauss and Hoeber

1. Dependent Claim 16

Dependent claim 16 is at least patentable due to its dependency from independent claim 1.

Furthermore, claim 16 also recites "the user designates that the region be held in place when the symbol crosses the boundary" which is not taught or suggested by Hoeber. Hoeber merely discusses a push pin 150 that can be used to pin a window to the screen. Hoeber does not teach that the region is held in place "when the symbol crosses the boundary." The Office Action's reasoning for combining Hoeber with Strauss and Iwema, "to avoid the inefficient and time consuming requirement of reselecting a particular menu button within a menu while allowing the users to execute other options" is entirely unrelated to the claim language of dependent claim 16. Rather, claim 16 is related to keeping the region from following the symbol.

Therefore, claim 16 is patentable over Iwema, Strauss, and Hoeber.

2. Dependent Claim 40

Dependent claim 40 is at least patentable due to its dependency from independent claim 32.

Furthermore, claim 40 also recites "allowing the user to designate a position for the menu and allowing the tracking symbol to cross the edge without moving the menu" which is not taught or suggested by Hoeber. Hoeber merely discusses a push pin 150 that can be used to pin a

window to the screen. Hoeber does not teach "allowing the tracking symbol to cross the edge without moving the menu." The Office Action's reasoning for combining Hoeber with Strauss and Iwema, "to avoid the inefficient and time consuming requirement of reselecting a particular menu button within a menu while allowing the users to execute other options" is entirely unrelated to the claim language of dependent claim 16. Rather, claim 16 is related to keeping the region from following the tracking symbol.

Therefore, claim 20 is patentable over Iwema, Strauss, and Hoeber.

F. Rejection of Claims 12, 19, 29-30, 39, 43, and 55-56 under 35 U.S.C. § 103(a) over Iwema, Strauss, and Nicholas, III

1. Dependent Claim 12

Dependent claim 12 is at least patentable due to its dependency from independent claim 1.

Therefore, claim 12 is patentable over Iwema, Strauss, and Nicholas, III.

2. Dependent Claim 19

Dependent claim 19 is at least patentable due to its dependency from independent claim 1.

Furthermore, column 8, lines 30-36 and Figure 4A, items 408d and 408e do not teach "the mobile tracking region deforms corresponding to a shape of a persistent object when the symbol comes in a vicinity of a persistent object or display edge." Nothing cited or found in Nicholas teaches or suggests the mobile tracking region deforms corresponding to a shape of a persistent object. Nicholas merely discusses that a trailing message can be reoriented in relation to the cursor, be repositioned, be resized, and disappear altogether. This does not teach the mobile tracking region deforms corresponding to a shape of a persistent object.

Therefore, claim 19 is patentable over Iwema, Strauss, and Nicholas, III.

3. Dependent Claim 29

Dependent claim 28 is at least patentable due to its dependency from independent claim 28.

Therefore, claim 28 is patentable over Iwema, Strauss, and Nicholas, III.

4. Dependent Claim 30

Dependent claim 30 is at least patentable due to its dependency from independent claim

28.

Therefore, claim 30 is patentable over Iwema, Strauss, and Nicholas, III.

5. Dependent Claim 39

Dependent claim 39 is at least patentable due to its dependency from independent claim 32.

The Office Action mailed on December 11, 2008 asserts on page 22 that claim 39 is taught by Nicholas. In particular, the Office Action asserts that Nicholas teaches positioning the tracking menu in correspondence when the cursor goes beyond the confines of the interface display and cites column 8, lines 31-35. However, claim 39 recites "positioning the tracking menu in correspondence when the stylus comes into tracking range." The Office Action has paraphrased claim 39 and Nicholas does not teach positioning the tracking menu in correspondence when the stylus comes into tracking range.

Therefore, claim 39 is patentable over Iwema, Strauss, and Nicholas, III.

6. Dependent Claim 43

Dependent claim 43 is at least patentable due to its dependency from independent claim 32.

Furthermore, column 8, lines 30-36 and Figure 4A, items 408d and 408e do not teach "deforming a shape of the menu to an outline when the symbol approaches a boundary of a persistent object or display edge." Nothing cited or found in Nicholas teaches or suggests the deforming a shape of the menu to an outline. Nicholas merely discusses that a trailing message can be reoriented in relation to the cursor, be repositioned, be resized, and disappear altogether. This does not teach deforming a shape of the menu to an outline.

Therefore, claim 43 is patentable over Iwema, Strauss, and Nicholas, III.

7. Dependent Claim 55

Dependent claim 55 is at least patentable due to its dependency from independent claim 53.

Furthermore, dependent claim 55 recites additional features not taught or suggested by Iwema, Strauss, and Nicholas, III. Figure 4 of Strauss shows the Drag Toolbar of Strauss. The Office Action mailed December 11, 2008 cited Figure 4a of Strauss as teaching claim 55. Not only does Strauss not have a Figure 4a, but Figure 4 of Strauss does not teach that "the region moves in correspondence to the tracking symbol without activating a selection button on the

input transducer." Rather, as discussed in Strauss, the "Drag Toolbar" does not even display until a drag is initiated. Thus, Strauss cannot teach "the region moves in correspondence to the tracking symbol without activating a selection button on the input transducer." Strauss's "Drag Toolbar" which the Examiner appears to associate with "the region" does not even display without activating an input device, such as clicking a mouse and dragging. Strauss specifically states in column 3, lines 38-46: "[a] user commences the drag operation by placing the cursor 4 over the graphic image 2 and initiating a drag operation on the graphic image 2. In some applications, the user would select the graphic image 2 (e.g. by clicking with a mouse button), and then select and hold (e.g. by depressing a mouse button to indicate dragging. In other applications, the user can select and hold in one operation to initiate dragging."

Therefore, claim 55 is patentable over Iwema, Strauss, and Nicholas, III.

8. Dependent Claim 56

Dependent claim 56 is at least patentable due to its dependency from independent claim 53.

Furthermore, column 8, lines 30-36 and Figure 4A, items 408d and 408e do not teach "the menu boundary deforms when encountering a persistent object while moving on the display." Nothing cited or found in Nicholas teaches or suggests the menu boundary deforms when encountering a persistent object. Nicholas merely discusses that a trailing message can be reoriented in relation to the cursor, be repositioned, be resized, and disappear altogether. This does not teach the menu boundary deforms when encountering a persistent object.

Therefore, claim 56 is patentable over Iwema, Strauss, and Nicholas, III.

G. Rejection of Claims 17-18 and 41-42 under 35 U.S.C. § 103(a) over Iwema, Strauss, Hoeber, and Nicholas, III

1. Dependent Claim 17

Dependent claim 17 is at least patentable due to its dependency from independent claim 1.

The Office Action mailed December 11, 2008 cites Figure 2A, item 208c as teaching "the interface comprises an outline of the mobile tracking region when the tracking symbol is over a persistent object." However, 208c is not discussed at all in Nicholas and appears to merely be a border around the cursor, but is certainly not an outline of the mobile tracking region.

Therefore, claim 17 is patentable over Iwema, Strauss, Hoeber and Nicholas, III.

2. Dependent Claim 18

Dependent claim 18 is at least patentable due to its dependency from independent claim 1.

The Office Action mailed December 11, 2008 cites reference numeral 234 in Figure 2C of Nicholas. However, 234 is discussed as being an example view of a behavior of a message when placed over hyperlink text and images. Nothing is clipped in Figure 2C. Thus Nicholas does not teach the features of claim 18, in particular, "the interface is clipped when the tracking symbol exits the persistent object."

Therefore, claim 18 is patentable over Iwema, Strauss, Hoeber and Nicholas, III.

3. Dependent Claim 41

Dependent claim 41 is at least patentable due to its dependency from independent claim 32.

The Office Action mailed December 11, 2008 cites Figure 2A, item 208c as teaching "converting the menu to an outline when the symbol crosses a boundary of a persistent object." However, 208c is not discussed at all in Nicholas and appears to merely be a border around the cursor, and is not at all related to converting the menu to an outline.

Therefore, claim 41 is patentable over Iwema, Strauss, Hoeber and Nicholas, III.

4. Dependent Claim 42

Dependent claim 42 is at least patentable due to its dependency from independent claim 32.

Furthermore, Nicholas does not teach "converting the menu to a complete graphical menu when the symbol exi[ts] the persistent object" and "clipping a portion of the complete graphical menu overlapping the persistent object." The Office Action mailed December 11, 2008 asserts that item 208g in Figure 2C and item 234 teach the above claim limitations. However, these cited reference numerals are a trailing message and example views, and completely unrelated to the claim language of claim 42. All three of the advertisements in Figure 2C appear the same, as a full advertisement, and nothing is clipped.

Therefore, claim 42 is patentable over Iwema, Strauss, Hoeber and Nicholas, III.

H. Summary

In view of the foregoing remarks, Appellant submits that pending appealed claims 1-30

and 32-56 are patentable over the relied upon cited references. Reversal of the Examiner's rejection is respectfully requested.

The Commissioner is authorized to charge any Appeal Brief fee or Petition for Extension of Time fee for underpayment, or credit any overpayment, to Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: _____8/11/9_____   By: _____
                                    J. Randall Beckers
                                    Registration No. 30,358

1201 New York Avenue, N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501

VIII.   Claims Appendix (37 C.F.R. § 41.37(c)(1)(viii))

1.   (Previously Presented) A graphical user interface display, comprising:

a tracking symbol positioned corresponding to an input transducer movable by a user; and

a menu, on the display, having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, the region having controls with boundaries and activatable when the tracking symbol corresponds to the controls, and the menu is always visible when one of the controls is not activated and always not visible when one of the controls is activated.

2.   (Currently Amended) An interface display as recited in claim 1, wherein the region comprises a menu having visible menu edge.

3.   (Currently Amended) An interface display as recited in claim 1, wherein the region comprises one of a linear menu, a menu with an embedded marking menu, a tool palette, a color palette, a pan-zoom tool, a pen-mouse, a keyboard, a numeric pad, one or more buttons, sliders, checkboxes, pull-down menu, a dialog box, and an alternative view.

4.   (Currently Amended) An interface display as recited in claim 1, wherein the controls of the interface further comprise a control changed in appearance when the tracking symbol is over the control and is active.

5.   (Currently Amended) An interface display as recited in claim 1, wherein the region is semi-transparent when the tracking symbol is inactive and transparent when the tracking symbol is active.

6.   (Currently Amended) An interface display as recited in claim 1, wherein the tracking symbol can be activated by the user and performs a selected function when active.

7.   (Currently Amended) An interface display as recited in claim 6, wherein a selected function is performed when the tracking symbol is active.

8.   (Currently Amended) An interface <u>display</u> as recited in claim 6, wherein the transducer corresponds to a stylus, the tracking symbol and region are displayed on a tablet display, and the tracking symbol is activated when the stylus touches the tablet.

9.   (Currently Amended) An interface <u>display</u> as recited in claim 6, wherein the tracking symbol is inactive when the stylus is not touching the tablet.

10.   (Currently Amended) An interface <u>display</u> as recited in claim 6, wherein the transducer corresponds to a mouse having a mouse button, the tracking symbol and region are displayed on a tablet display, and the tracking symbol is activated when the mouse is one of moved and activated.

11.   (Currently Amended) An interface <u>display</u> as recited in claim 1, wherein the positioning corresponding to the motion of the input transducer stops under a predetermined condition and the region is repositioned corresponding to the tracking symbol when the condition no longer exists.

12.   (Currently Amended) An interface <u>display</u> as recited in claim 11, wherein the repositioning positions the menu a least Euclidean distance from the prior position.

13.   (Currently Amended) An interface <u>display</u> as recited in claim 11, wherein the predetermined condition is a stylus out-of-range condition.

14.   (Currently Amended) An interface <u>display</u> as recited in claim 1, wherein the boundary is maintained around the symbol.

15.   (Currently Amended) An interface <u>display</u> as recited in claim 1, wherein the symbol is allowed to cross the boundary while moving and the boundary surrounds the symbol when the symbol is not moving.

16.   (Currently Amended) An interface <u>display</u> as recited in claim 1, wherein the user designates that the region be held in place when the symbol crosses the boundary.

17.   (Currently Amended) An interface <u>display</u> as recited in claim 16, wherein the interface comprises an outline of the mobile tracking region when the tracking symbol is over a persistent object.

18.   (Currently Amended) An interface <u>display</u> as recited in claim 17, wherein the interface is clipped when the tracking symbol exits the persistent object.

19.   (Currently Amended) An interface <u>display</u> as recited in claim 1, wherein the mobile tracking region deforms corresponding to a shape of a persistent object when the symbol comes in a vicinity of a persistent object or display edge.

20.   (Currently Amended) An interface <u>display</u> as recited in claim 1, further comprising an interior tracking boundary interior to the region boundary and the region moving in correspondence to the tracking symbol when the tracking symbol encounters the interior tracking boundary.

21.   (Currently Amended) An interface <u>display</u> as recited in claim 20, wherein the interior tracking boundary comprises a jutting wall.

22.   (Currently Amended) An interface <u>display</u> as recited in claim 1, wherein the interface has a visible edge and the boundary corresponds to one of the visible edge, outside the visible edge, inside the visible edge and overlaps the visible edge.

23.   (Currently Amended) An interface <u>display</u> as recited in claim 1, wherein control activation requires a dwell by the tracking symbol.

24.   (Currently Amended) An interface <u>display</u> as recited in claim 1, wherein control functionality is context sensitive.

25.   (previously presented) An interface display, comprising:
a first tracking symbol having a first tracking symbol position controllable by the user; and

a second tracking symbol containing the first tracking symbol, having a second tracking symbol position controlled by the first tracking symbol and having objects selectable by the first tracking symbol, the second tracking symbol having a menu containing the selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated.

26. (Currently Amended) An interface <u>display</u> as recited in claim 25, wherein the first and second tracking symbol positions correspond.

27. (Currently Amended) An interface <u>display</u> as recited in claim 25, wherein the objects comprise controls.

28. (previously presented) An interface, comprising:
a display;
a tracking menu positioned on the display, having an edge and having controls positioned in the menu with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the controls is not activated and always not visible when one of the controls is activated;
a tracking symbol positioned above the menu, encountering the edge of the boundary when moved and moving the menu when the edge is encountered.

29. (original) An interface as recited in claim 28, further comprising a graphic object positioned between the menu and the display.

30. (original) An interface as recited in claim 28, further comprising a persistent graphic object positioned between tracking symbol and the menu.

31. (Previously Presented) A graphical user interface display, comprising:
a tracking symbol positioned corresponding to a stylus input transducer movable by a user; and

a mobile tracking menu region, on the display, having a region boundary enclosing the tracking symbol with the tracking symbol being movable within the boundary with the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, the menu region having visible menu edge coincident with the boundary, the menu region having button controls activatable when the tracking symbol corresponds to the controls with a control changed in appearance when the tracking symbol is over the control and is active, the menu region being semi-transparent when the tracking symbol is inactive and transparent when the tracking symbol is active, where the tracking symbol can be activated by the user selecting one of the controls and performs a selected function when active, and the mobile tracking menu region is always visible when one of the controls is not activated and always not visible when one of the controls is activated,

wherein the tracking symbol and region are displayed on a tablet display, and the tracking symbol is activated when the stylus touches the tablet,

wherein the positioning corresponding to the motion of the input transducer stops when the stylus is out of range of the tablet and the menu region is repositioned a least Euclidean distance from the prior position corresponding to the tracking symbol when the condition no longer exists,

wherein the interface comprises an outline of the mobile tracking region when the tracking symbol is over a persistent object and the interface is clipped as the tracking symbol exits the persistent object, and

wherein the mobile tracking region deforms corresponding to a shape of a persistent object when the symbol comes in a vicinity of a persistent object or display edge.

32.   (previously presented) A method, comprising:

allowing a user to move a tracking symbol on a display; and

moving a tracking menu having controls in correspondence to the symbol when the symbol encounters an edge of the menu with the menu always being visible when one of the controls is not activated and always being not visible when one of the controls is activated.

33.   (original) A method as recited in claim 32, further comprising allowing a user to select an item in the tracking menu without moving the tracking menu.

34.   (original) A method as recited in claim 32, wherein movement of the tracking symbol is responsive to movement by the user of a stylus over a stylus sensing tablet and the moving of the tracking menu occurs when the stylus is in tracking range of the tablet.

35.   (original) A method as recited in claim 34, further comprising making the tracking menu transparent when the stylus touches the tablet.

36.   (original) A method as recited in claim 35, further comprising performing a graphic function corresponding to motion of the stylus when the menu is transparent.

37.   (original) A method as recited in claim 36, wherein the function is makes a mark on the display.

38.   (original) A method as recited in claim 32, wherein movement of the tracking symbol is responsive to movement by the user of a stylus over a stylus sensing tablet and further comprising positioning the tracking menu in correspondence when the stylus comes into tracking range.

39.   (original) A method as recited in claim 32, wherein movement of the tracking symbol is responsive to movement by the user of a stylus over a stylus sensing tablet and further comprising positioning the tracking menu in correspondence when the stylus ends contact with the tablet.

40.   (original) A method as recited in claim 32, further comprising allowing the user to designate a position for the menu and allowing the tracking symbol to cross the edge without moving the menu.

41.   (original) A method as recited in claim 32, further comprising converting the menu to an outline when the symbol crosses a boundary of a persistent object.

42.   (original) A method as recited in claim 41, further comprising:
converting the menu to a complete graphical menu when the symbol exist the persistent object; and
clipping a portion of the complete graphical menu overlapping the persistent object.

43.   (original) A method as recited in claim 32, further comprising deforming a shape of the menu to an outline when the symbol approaches a boundary of a persistent object or display edge.

44.   (previously presented) A method, comprising moving a first tracking symbol responsive to movement of a second tracking symbol, the first tracking symbol having a menu containing selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary and moving the second tracking symbol responsive to an input transducer, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated.

45.   (previously presented) A method, comprising using a single cursor movement to both move and activate a mobile control, the mobile control having a menu containing selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the selectable objects is not selected and always not visible when one of the selectable objects is selected.

46.   (previously presented) An apparatus, comprising:
a position transducer;
a display; and
a computer coupled to the display and the transducer, and producing for display a first tracking symbol having a first tracking symbol position controllable by the transducer and a second tracking symbol containing the first tracking symbol, having a second tracking symbol position controlled by the position of the first tracking symbol and having controls selectable by the first tracking symbol, the second tracking symbol having a menu containing selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated.

47.   (previously presented) A computer readable storage controlling a computer by allowing a user to move a tracking symbol on a computer display, and moving a tracking menu in correspondence to the symbol when the symbol encounters an edge of the menu, the menu containing selectable objects, with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated.

48.   (previously presented) A computer readable storage controlling a computer with a first tracking symbol having a first tracking symbol position controllable by the user; and a second tracking symbol containing the first tracking symbol, having a second tracking symbol position controlled by the first tracking symbol and having a menu with objects selectable by the first tracking symbol with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated.

49.   (Previously Presented) A graphical user interface display, comprising:
      a display area that tracks a cursor tool when the cursor tool reaches a boundary of the area and that has a display function; and
      the cursor tool movable within the area and that drags the area around when the boundary is reached and being activated by an input event, the area having a menu containing selectable objects with the menu having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary, and the menu is always visible when one of the selectable objects is not activated and always not visible when one of the selectable objects is activated.

50.   (Currently Amended) A graphical user interface of a computer display, comprising:
      a tracking symbol positioned corresponding to an input transducer movable by a user; and

a mobile tracking region, on the display, having a region boundary enclosing the tracking symbol with the tracking symbol being movable within the boundary when not dragging, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, the region having controls activatable when the tracking symbol corresponds to the controls, and the mobile tracking region is always visible when one of the controls is not activated and always not visible when one of the controls is activated.

51.   (Currently Amended) A graphical user interface ~~of a computer~~ display, comprising:

a tracking symbol positioned corresponding to an input transducer movable by a user;

a mobile tracking region, on the display, having a region boundary enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, the region having controls activatable when the tracking symbol corresponds to the controls, the controls for selecting commands, and the mobile tracking region is always visible when one of the controls is not activated and always not visible when one of the controls is activated.

52.   (Currently Amended) A graphical user interface ~~of a computer~~ display, comprising:

a tracking symbol positioned corresponding to an input transducer movable by a user; and

a menu, on the display, having an edge enclosing the tracking symbol with the tracking symbol being movable within the edge, the menu moving in correspondence to the tracking symbol when the tracking symbol encounters the edge while moving, and the region having controls activatable when the tracking symbol corresponds to the controls, and the menu is always visible when one of the controls is not activated and always not visible when one of the controls is activated.

53.   (Previously Presented) A graphical user interface display, comprising:

a tracking symbol positioned on the display corresponding to an input transducer movable by a user; and

a menu, on the display, having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, the region having controls with boundaries and activatable when the tracking symbol corresponds to the controls.

54.   (Previously Presented) A graphical user interface display, comprising:

a tracking symbol positioned on the display corresponding to an input transducer movable by a user; and

a menu, on the display, having a menu boundary and comprising a mobile tracking region having a region boundary coincident with the menu boundary and enclosing the tracking symbol with the tracking symbol being movable within the boundary, the region moving in correspondence to the tracking symbol when the tracking symbol encounters the boundary while moving, the region having controls with boundaries and activatable when the tracking symbol corresponds to the controls, the menu is always visible when one of the controls is not activated and always not visible when one of the controls is activated, and the menu tracks the tracking symbol when the menu is not visible.

55.   (Currently Amended) An interface <u>display</u> as recited in claim 53, wherein the region moves in correspondence to the tracking symbol without activating a selection button on the input transducer.

56.   (Currently Amended) An interface <u>display</u> as recited in claim 53, wherein the menu boundary deforms when encountering a persistent object while moving on the display.

IX.   **EVIDENCE APPENDIX (37 C.F.R. § 41.37(c)(1)(ix))**

None

X.   RELATED PROCEEDINGS APPENDIX (37 C.F.R. § 41.37(c)(1)(x))

Application 10/684,579 is currently pending and a Notice of Appeal was filed on May 11, 2009.